

Road Safety Bill Regulatory Impact Assessment (RIA)

Contents

Overarching Road Safety Bill RIA	3
Introduction.....	3
Background.....	3
Risk assessment	5
Benefits	6
Issues of equity and fairness	7
Costs.....	7
Summary & Recommendation.....	9
Section 1 - Drink Driving, Speeding & Other Bad Driving	10
Section 1 - Summary of Contents	10
Roadside Evidential Breath Testing.....	10
Re-testing for Repeat Offenders	11
Changes to the High Risk Offenders Scheme	11
Alcohol ignition interlocks.....	12
Road Traffic Penalties.....	13
Speed Exemptions.....	14
Retraining courses as a court disposal for speeding, careless driving and other offences	15
Banning the Carriage of Speed Enforcement Detection & Jamming Devices.....	15
Changes to the Drink Drive Rehabilitation Scheme	20
Section 2 - Improving driving standards	28
Section 2 - Summary of Contents	28
Driving Standards Agency Proposals	28
Fee related powers	32
Powers affecting the training and supervision of instructors	33
Publication of performance data	36
Miscellaneous provisions.....	37
Section 3 - Fatigue	40
Section 3 - Summary of Contents	40
Motorway Rest Areas	40
Drivers' Hours - Amendments to Section 99 of the Transport Act 1968.....	43

Section 4 - Support for the enforcement of traffic and roadworthiness regulations	48
Section 4 - Summary of Contents	48
Fixed penalties for drivers with no current GB licence	48
Abolition of the counterpart to the driving licence	49
Graduated fixed penalty/deposit scheme	49
Section 5 - Support for enforcement of Insurance and Driver & Vehicle Licensing	56
Section 5 - Summary of contents	56
Disclosure of old insurance information	57
Requirement to surrender a licence to DSA staff where fraud is suspected	57
Fee for the grant of an ordinary driving licence to an EC national following the loss of vocational entitlement.....	58
Required Particulars for Vehicles Register	58
Regulation of registration plate suppliers	63
Disclosure to foreign authorities of licensing and registration information (Enshrining the EUCARIS Treaty in UK Legislation).....	78
Compulsory surrender of old form licences.....	81
Fee for renewal of photocard licences	84
Section 6 - Other Road Safety Related Issues.....	87
Section 6 - Summary of contents	87
Powers to Regulate Transport of Radioactive Material	87
Powers to provide Road Safety Grant to local authorities	88
Vehicles modified to run on fuel stored under pressure	88
Definition of a London Private Hire Vehicle.....	92
Overall Summary & Recommendation.....	99
Ministerial Declaration	99

Overarching Road Safety Bill RIA

Introduction

The Road Safety Bill is a package of stand alone measures that will contribute to the reduction of road casualties of all severity and further the achievement of the Government's long term casualty reduction targets as defined in the Road Safety Strategy¹.

Specifically it will deliver key legislation tackling problems in the core areas of drink driving, speeding, and the training and testing of drivers. In addition it will also make important contributions in other areas directly relevant to road safety such as: driver fatigue, vehicle safety and driver licensing. Many of the proposals do not represent radical new policies but are underpinning existing ones by bridging gaps and refining existing statutes. The following sections of this document provide details of the measures contained in the Bill and Regulatory Impact Assessments (RIAs) where applicable.

Background

The Government's Road Safety Strategy *Tomorrow's Roads - Safer for everyone*, published in March 2000, set out a framework for delivering further improvements in road safety over the next decade and established new long term 10 year casualty reduction targets to be achieved by 2010 (see below).

The Strategy Targets

By 2010, the aim is to achieve, compared with the baseline average for 1994-98:

- a 40% reduction in the number of people killed or seriously injured (KSI) in road accidents;
- a 50% reduction in the number of children killed or seriously injured (Child KSIs) in road safety accidents; and
- a 10% reduction in the slight casualty rate, expressed as the number of people slightly injured per 100 million vehicle kilometres.

The KSI and Child KSI casualty reduction targets form the Department's road safety Public Service Agreement (PSA) objectives. In July 2002 this PSA target was enhanced to address the significantly higher number of road accident casualties that occur in deprived areas, where for example children from Social Class V are five times more likely to die as pedestrians in a road accident than children from Social Class I.

In April 2004 the Government published the first three-year review of its Road Safety Strategy². The review showed that good progress has been made towards both the overall and child KSI targets - 17% and 33% respectively (the latest road casualty figures for 2003 show a further fall to 22% and 40%³). Analysis also indicated that the slight casualty rate target has already been achieved, although the Government is cautious about whether this is due to genuine improvements in safety. In part this has been achieved through the implementation of proposals set out in the strategy.

The table below summarises the casualty data up to 2003 in relation to the targets.

¹ Tomorrow's Roads - Safer for Everyone. The Government's road safety strategy and casualty reduction targets for 2010. DTLR, March 2000.

² Tomorrow's Roads - Safer for Everyone, The First three year review. DfT, April 2004.

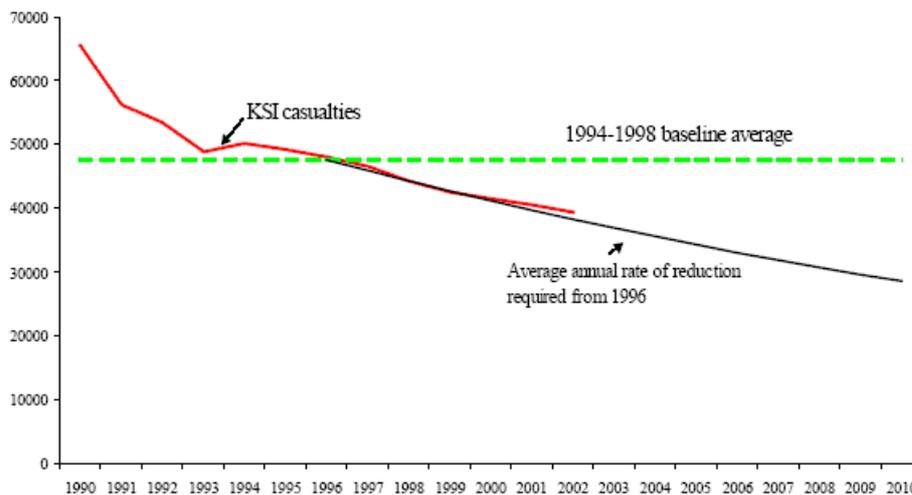
³ Road Casualties Great Britain: 2003, Annual Report. DfT, September 2004.

Road Safety Bill Regulatory Impact Assessment (RIA)

	1994-1998 average	1999	2000	2001	2002	2003	2003 % change over 1994-98 baseline	2010 levels based upon the target
KSI Casualties	47,656	42,545	41,564	40,560	39,407	37,215	-22%	28,594
Child KSI Casualties	6,860	5,699	5,202	4,988	4,596	4,100	-40%	3,430
Slight Casualty Rate	61	59	59	57	54	51	-17%	55

However, whilst we are making progress there are areas of concern. Although overall KSI casualties are on a downward trend the rate of decline remains above that of the notional trajectory, which represents the average reduction required each year from 1996 for the 2010 targets to be achieved. The recent three-year review estimated that the reduction in the number of KSIs in 2002 was 2.4% less than is needed to be on the notional trajectory. This is shown in the graph below.

Killed or Seriously Injured Casualties: 1990-2002



One of the reasons for this is the levelling off in the previously reducing annual number of road accident fatalities (see table below). On average 10 people are still dying on Britain's roads each day, with excessive or inappropriate speed and the increase in drink driving contributing significantly to this.

Trends in fatal & serious injury casualties compared with the 1994-98 baseline

Road Safety Bill Regulatory Impact Assessment (RIA)

	1994-1998 average	1999	2000	2001	2002	2003	2003 percentage change over 1994-98 baseline average
Fatalities	3,578	3,423	3,409	3,450	3,431	3,508	-2%
Serious Injuries	44,078	39,122	38,155	37,110	35,976	33,707	-23%
Total KSI	47,656	42,545	41,564	40,560	39,407	37,215	-22%

Risk assessment

The Government's latest annual road casualty statistics show that in 2003 3,508 people were killed, over 33,000 people were seriously injured and over 250,000 people suffered slight injuries.

Although most casualty trends are in the right direction the three-year review highlighted a number of road safety issues as those requiring particular attention, these included:

- *Drink Driving* (see section 1) - estimated numbers of drink driving related accidents and casualties have increased and in 2002 (13,150) was the highest for ten years. Similar increases have been seen in the number of drink drive related casualties;
- *Excessive & Inappropriate Speed* (section 1) - continues to be a major contributory factor in many accidents. Each year speed is thought to contribute to around 1,200 deaths and 100,000 injuries;
- *Motorcycle Safety* - motorcyclist fatalities have risen since 1994 and in 2002 were 30% above the 1994-1998 baseline average - (a combination of factors are involved here - with speed (section 1), inadequate driving skills (section 2) and the failures of other road users being significant); and
- *Child Casualties* (section 6) - although significant progress has been achieved since the introduction of the strategy in 2000, the three-year review emphasised the need for maintaining momentum and further reducing child casualties, with a particular focus on child pedestrian and in-car casualties. There is also a need to continue to tackle the significantly higher number of road casualties occurring in deprived areas and one of the best ways of dealing with this is at the local level.

Left unchecked issues like these threaten to jeopardise the advances made so far. The Road Safety Bill will provide for the next stage of those proposals contained within the Road Safety strategy that require primary legislation. This next stage will help to directly address in particular the risks highlighted above. In addition, following on from the first three-year review of the strategy, the Bill contains several other elements that have since been identified and will further enhance the success of the strategy and improve Road Safety.

Benefits

Each fatality prevented on Britain's roads represents an approximate overall saving of £1.2m and each serious injury prevented represents a saving of £140,000⁴. These savings account for many economic as well as social and environmental factors including loss of output, loss of earnings, ambulance costs and costs of hospital treatment and human costs representing pain, grief and suffering to the casualty, relatives and friends. Using these figures it is possible to estimate, in cost-benefit terms, the value of prevention of road traffic accidents. In 2002 for example, 3,124 fatal accidents, 30,521 serious accidents, 188,106 slight accidents and 3.3million damage-only accidents were reported. The total value of prevention of all road accidents in 2002 was therefore estimated to have been £17,760million⁵.

Between publication of the road safety strategy in 2000 and 2003 the number of KSIs fell by 4448 or 11%. Further analysis shows that child KSIs fell by 1094 or 22% between 2000-2003. It is impossible to say how much of this is due to the Strategy, but the fall in child KSIs has accelerated and it is plausible to think that the emphasis on child road safety in the strategy may have played a part.

Likewise it is not possible to evaluate the individual contributions of the measures in this Bill because most of them are two or more stages removed from safety on the roads. However, the provisions listed in the road safety Bill should contribute towards the achievement of the Government's 2010 road safety targets. In support of this the following information should be considered:

- *Local Authority road safety schemes* have a very high rate of return. For example, the Gloucester Safer City project which was designed to demonstrate how road safety could be improved across a whole city saw deaths and serious injuries fall by 38 per cent⁶. Furthermore English local Authorities (excluding London) spent £115 million in 2002-03 on road safety engineering schemes and saved nearly 5000 casualties. This is the equivalent to a return of nearly £1.70 for every £1 spent in the first year alone.
- Research has shown that inexperienced drivers have high accident rates in the post test period⁷ - i.e. in 2002 drivers aged between 17-21 represented only 6% of all licence holders, but are involved in 12% of injury accidents. *Better pre-test training* will make learner drivers better prepared for driving alone.
- *Driver re-training* - research has shown that those drivers who attended approved drink-drive rehabilitation courses are between 2 and 3 times less likely to re-offend than those who have not⁸.

Although the primary aim of this road safety bill is a reduction in the number of road accident casualties there are other benefits which also should be taken into account. For example:

- *Mandatory Mileage Recording* should also help to reduce the cost to industry of illegally clocking vehicles which is currently estimated to cost approximately £100 million per annum⁹; and

⁴ Highways Economic Note No:1 2002 (published November 2003)

⁵ Ibid.

⁶ Report on the Gloucester Safer City Project, DfT, August 2001

⁷ Cohort Study of learner & Novice drivers, Part 3 - TRL project Report 111 (1995), TRL, Crowthorne, Berks.

⁸ The Drink/Drive Rehabilitation Scheme: evaluation & monitoring. Final Report, TRL Report TRL613, 2004.

⁹ Figure provided by the Automobile Association (AA) based on consumers/traders purchasing clocked vehicles for inflated prices, that do not reflect the actual, much lower value.

- Signing up to the *EUCARIS treaty* should help contribute towards tackling international vehicle crime - which is estimated to cost the UK insurance industry in excess of £330 million every year.

Issues of equity and fairness

In general most measures contained within the Bill by their nature only contribute to an increase in safety across the board, by making roads in general safer for all categories of user. However, research has demonstrated that amongst disadvantaged communities there is a disproportionately higher risk to road users especially children. In addition there is also a disproportionate risk to children across Great Britain when compared to the European average. The strategy targets have recognised this by placing a special emphasis on disadvantage and a target of reducing the numbers of children killed or seriously injured by 50% over the 1994-1998 baseline.

Road Safety grants to Local Authorities can deal directly with redressing this balance. The Department is promoting demonstration projects in Greater Manchester and Birmingham to target road safety problems of disadvantaged communities and inner cities. The projects require funding that goes wider than that which can be delivered through the normal channels for local authority schemes (capital only) and this legislation will enable that. The projects are being closely monitored and evaluated to produce best practice guidance for other authorities and partnerships.

A different aspect of fairness and equity arises in connection with enforcement and penalties. The Review of Road Traffic Penalties in 2002¹⁰ set the basis for modifying penalties to conform better to public expectations of how seriously certain offences should be seen, particularly in the context of wider criminality.

In addition to changes that will produce severer penalties for the worst offenders, there is also a restorative measure in the form of increased use of driver-retraining as a court disposal.

Part of the difficulty of securing public acceptability for penalties and enforcement is a perception that some people are flouting the law and getting away with it easily. The accusation is particularly levelled at those who drive without vehicle or driver licence, tax or insurance. A number of measures in the Bill will help to close loopholes in regulatory and administrative systems.

Costs

Where appropriate, costs have been detailed in the following individual assessments. However, **the total impact of the Bill on various businesses has been estimated at just over £6 million in any one year.** This is the highest likely annual cost and is based on a substantial amount of fixed set-up costs all assumed to be incurred in the first year; on going costs would be lower. No costs for local authorities and charitable organisations are foreseen.

The overall estimated annual cost of the Bill for the first year, can be broken down by specific measure as set out in the table below. Costs for business are shown in bold.

¹⁰ Report on the Review of Road Traffic Penalties, Joint Report by the Home Office, Department for Transport & Lord Chancellor's Department, July 2002

Road Safety Bill Regulatory Impact Assessment (RIA)

Provision	Costs (incurred by)	Total Year one costs
Driver Training & Testing	£2.5m for the requirement of driving instructors to be registered for other classes of vehicles e.g lorries, buses and motorcycles. (LGV/PCV & Motorcycle trainers)	£2.5m
Regulating the Supply of Number Plates	£0.14m for the registration of Number-Plate Suppliers in Scotland and £0.04m N.Ireland. (Companies supplying number plates)	£0.18m
Graduated Fixed Penalty/Deposit Scheme	£2,17m set up costs (VOSA) (and annual costs thereafter of £0.8m)	£2.2m
Motorway Rest Areas	£3m for trial set up costs (Highways Agency) plus annual maintenance costs of £0.3m	£3m
Required particulars for Vehicle register (Mandatory Mileage Recording)	£2.15m for annual running costs, there are negligible set up costs - (fleet and vehicle rental companies)	£2.15m
Vehicles modified to run on fuel stored under pressure (certification scheme)	£0.3-£1m Set up Costs (public sector) £0.9m annual compliance costs to alternative fuel converters and installers (Alternative Fuel conversion & installation industry)	£0.3m-£1m £0.9m
Private Hire Vehicles (London)	£0.35 million (Unlicensed London Private Hire Operators & Drivers)	£0.38
	Total Cost to Business	£6.11m
	Total Cost to the Public Sector	£5.5-6.2m
	Overall Total Cost	£11.61-12.31m

Not included in the table above are the costs associated with the possible recall of paper driving licences - this is principally because of the difficulties in providing an annual cost. However, it should be noted that initial estimates indicate that the total costs associated with this could reach £35-40million but this would be phased in over a period of approximately 2 years. Furthermore, some or all of this figure could be reduced through charging a fee, however no decision has yet been taken on this.

Annual running costs after the first year will be significantly less than the costs outlined above, partly because many of the one-off set up costs would no longer exist after year one. Our (best) estimate

Road Safety Bill Regulatory Impact Assessment (RIA)

indicates that annual running costs, for all sectors, from year two onwards would be in the region of £4.3million. This breaks down as follows:

Provision	Estimated annual running costs from Year 2 onwards
Required particulars for Vehicle register (Mandatory Mileage Recording) - annual running costs	2.15m
Vehicles modified to run on fuel stored under pressure (Certification Scheme) - annual costs based on 15,000 conversions per year	0.9m
Motorway rest areas - maintenance costs of trial site	0.3m
London Private Hire Vehicles (on going costs associated with renewing licences annually for vehicles, 3 yearly for drivers and 5 yearly for operators)	Max 0.15m
Graduated Fixed Penalties/Deposit Scheme - annual administrative costs	0.8m
Total	£4.3m

Summary & Recommendation

In 2000 the Government published its road safety strategy which established casualty reduction targets to be achieved by 2010.

In 2003 the overall number of people killed and seriously injured on Britain's roads was 22% lower than the 1994-1998 baseline average (on which our targets are based). However, whilst we are making progress there remain issues of concern, for example, estimated numbers of drink driving related accidents and casualties have increased and in 2002 (13,150) were the highest for 10 years. Furthermore, in recent years there has been a levelling off in the number of road accident fatalities, and in 2003 for instance the number of fatalities was 2% higher than in 2002. Left unchecked issues like these threaten to jeopardise the advances made so far.

This Bill therefore contains a range of measures that will address these issues and contribute towards an improvement in road safety, and further the achievement of the government's long term casualty reduction targets. Not to legislate as set out in the Bill will delay achievement of key areas and therefore impact upon casualty reductions.

Section 1 - Drink Driving, Speeding & Other Bad Driving

Section 1 - Summary of Contents

Proposal (& Extent)	Those affected	RIA or Statement
Roadside Evidential Breath Testing (GB only)	Police, drivers who are breath tested	Statement only - the proposal will have no impact on business etc.
Re-testing for Repeat Offenders (GB only)	Drivers disqualified for a period of more than 2 years	Statement only - the proposal will have no impact on business etc.
Changes to the High Risk Offenders Scheme (GB only)	High Risk Offenders and drivers convicted under section 7a of the Road Traffic Act 1988	Statement only - the proposal will have no impact on business etc.
Alcohol ignition interlocks (GB only)	Courts, drink drive offenders, drink drive rehabilitation course providers	Statement only - the proposals will have no impact on business etc.
Road Traffic Penalties (GB only)	Drivers convicted of breaking the applicable road traffic law	Statement only - the proposals will have no impact on business etc.
Speed Exemptions (GB only)	Organisations granted an exemption by the SoS to exceed speed limits	Statement only at this stage - if appropriate a RIA will be produced before regulations are made under the proposed power.
Retraining courses as a court disposal (GB only)	Courts, DVLA, Course providers, drivers who attend the courses	Statement only - the courses are based on the fact that the offender pays the full cost. Therefore the proposal should have no impact on business etc.
Speed Enforcement Detection Devices (GB only)	Police, Courts, plus manufacturers, retailers & owners of devices which jam or detect the signal emitted by safety camera equipment	RIA provided
Changes to the Drink Drive Rehabilitation Scheme (GB only)	Courts, Drink Drive offenders, Course providers	RIA provided

Roadside Evidential Breath Testing

The introduction of this measure will provide police with the powers to utilise new portable breath testing equipment. As a result of these powers, drivers who are innocent may be released earlier and

those who commit an offence will be dealt with more quickly, thus enabling a more efficient use of police resources.

For example, a typical drink drive offence can involve one or two officers at the roadside for between 30 minutes and an hour. If a suspect has to be taken to police station a further police officer may be involved though one or both of the others (if there are two) may be released. Where the alternative roadside evidential procedure applies there will be a time saving for officers. The provision also has operational advantages for the police but when the powers are in place it will be for individual operational units to decide when and how best to deploy the new equipment. Indirectly, this should benefit all road users by improving the efficiency of Police enforcement.

There is no perceived impact on business, charities or the voluntary sector. Furthermore a public services threshold test has been carried out and this has indicated that there is no need for a RIA to be produced. This provision will not therefore be subject to any further examination.

Contact Point:

Robert Davies
Driver Safety Division
Department for Transport
Tel: 020 7944 2045
Email: robert2.davies@dft.gsi.gov.uk

Re-testing for Repeat Offenders

Mandatory retesting is currently provided in respect of the most serious bad driving offences only (motor manslaughter, causing death by dangerous driving, dangerous driving and causing death by careless driving when under the influence of drink or drugs). Following on from the Review of Road Traffic Penalties we wish to extend this provision to any person disqualified for a period of more than 2 years. This will mainly affect persons convicted of drink driving offences under sections 4,5, 7 or 7A of the Road Traffic Act for very high levels of alcohol or for repeat offences within a period of ten years. The proposal can be taken forward by secondary legislation though a change to primary legislation concerning which test: "ordinary" or "extended" must be undertaken will affect it.

This proposal deals exclusively with the punishment of individuals breaking existing road traffic law. There is no perceived impact on business, charities or the voluntary sector. Furthermore a public services threshold test has been carried out and this has indicated that there is no need for a RIA to be produced. This provision will not therefore be subject to any further examination

Contact Point:

Robert Davies
Driver Safety Division
Department for Transport
Tel: 020 7944 2045
Email: robert2.davies@dft.gsi.gov.uk

Changes to the High Risk Offenders Scheme

These measures correct an oversight in the Police Reform Act 2002 and prevent High Risk Offenders from driving until medical enquiries have been suitably concluded.

The oversight failed to bring the period that offences under section 7A (specimens of blood taken from persons incapable of consenting) of the Road Traffic Act 1988 are held on DVLA driver records, into line with those of other drink drive offences i.e. 11 years. At present these records are only kept on the DVLA record for 4 years.

The High Risk Offenders (HRO) Scheme is intended to deal with drivers whose apparent dependency on alcohol presents a risk to road safety. Under the HRO scheme offenders are required to satisfy the Secretary of State's medical advisor at the Driver & Vehicle Licensing Agency (DVLA) that they do not have a drink problem and are fit to drive before their licence is returned. However, at the current time a HRO may drive before undergoing a medical, by virtue of section 88 of the Road Traffic Act 1988. We propose to remove this cover until the Secretary of State is satisfied that the offender is fit to drive.

The only people that will be affected by these changes are those who break road traffic law. There is no perceived impact on business, charities or the voluntary sector. Furthermore a public services threshold test has been carried out and this has indicated that there is no need for a RIA to be produced. This provision will not therefore be subject to any further examination.

Contact Point:

Robert Davies
Driver Safety Division
Department for Transport
Tel: 020 7944 2045
Email: robert2.davies@dft.gsi.gov.uk

Alcohol ignition interlocks

A breath alcohol ignition interlock device is an electronic device that is installed in a vehicle. Before a driver can activate the engine he has to provide a breath sample. If the driver has been drinking and the breath sample reveals a level above the pre-set value the ignition remains locked and it is impossible to start the car.

The Government is currently undertaking research and is considering how it might take advantage of these devices, but it is likely that use of alcohol ignition interlocks would be in accordance with a court order offering a drink drive offender an alcolock programme as part of remission on a driving disqualification. We will therefore be seeking appropriate powers for the courts to refer offenders to Interlock Programmes part of which is a condition on a driving licence to limit the driver to using a car fitted with an alcohol ignition interlock.

The people that will be mainly affected by the change are those who break road traffic law and take up the option of using an alcolock.

However, the provision of alcolock programmes, if they were to follow the North American model, could involve some businesses and organisations such as rehabilitation course providers. They would incur non-net costs since the scheme is founded on the principle that the offender pays the full cost. The other impact could be that, in the longer run, offenders who have the opportunity to use an alcolock are more likely to be employable if their disqualification is shortened. However it must be said that there is no plan to reduce the minimum level of disqualification for a drink drive offence, which currently stands at 12 months.

This proposal deals exclusively with the punishment of individuals breaking existing road traffic law. There is no perceived impact on business, charities or voluntary sector. Furthermore a public services threshold test has been carried out and this has indicated that there is no need for a RIA to be produced. The provision will not therefore be subject to further examination.

Contact Point:

Robert Davies
Driver Safety Division
Department for Transport
Tel: 020 7944 2045
Email: robert2.davies@dft.gsi.gov.uk

Road Traffic Penalties

The Road Safety Bill will provide for the following changes to road traffic penalties.

a) Variable tier fixed penalties

This proposal seeks to extend the range of endorsements for speeding offences from 3-6 to 2-6 penalty points and creates a power in secondary legislation for the Secretary of State to set different fixed penalties and points in different circumstances.

Whilst the basic penalty point system, which covers a range of offences, has worked well, speeding has clearly become a special case. With the advent of safety cameras there are many more speeding offences being detected these days, and there are considerable differences in the degree of excess speeding by motorists. We therefore feel it is appropriate that the penalty point system is altered so that punishment takes a better account of the level of offending.

b) Penalty for not identifying the driver

Section 172 of the Road Traffic Act 1988 provides that, where the driver of a vehicle is alleged to be guilty of an offence to which the section applies, the person keeping the vehicle is guilty of an offence if he fails to give such information as to the identity of the driver as he may be required by the Police.

At present, under the Road Traffic Offenders Act 1988, a person who is guilty of an offence under section 172 is liable to an obligatory endorsement of 3 penalty points and a fine of up to £1000. We are proposing to increase the endorsement to 6 penalty points so that it is the same as the maximum penalty for speeding, the most common offence that is concealed by the failure.

c) Careless driving

We are proposing to raise the maximum fine for careless driving from level 4 (£2,500) to level 5 (£5,000).

The decision to take forward these proposals came as a result of the joint Home Office, DfT and DCA Review of Road Traffic penalties that reported in 2002.

d) Mobile phones & failing to have proper control of a vehicle

At present using a hand held mobile phone whilst driving is punishable with a £30 fixed penalty or a fine on conviction of up to £1000 (£2,500 in case of goods vehicles or buses/coaches). While the offence of driving without having proper control (section 104 of the Construction & Use regulations) is punishable by a £60 fixed penalty or a fine on conviction of up to £1000 (£2,500 in case of goods vehicles or buses/coaches). This latter offence is used by the Police to deal with those who drive poorly when using a hands-free phone, eating a sandwich, reading a map etc.

Following on from the Department's consultation on mobile phones and driving¹¹ and the Review of Road Traffic Penalties the Government is persuaded that making both these offences endorseable (with 3 penalty points) sends a stronger warning to offending motorists. We also intend to raise the fixed penalty for using a hand held mobile phone whilst driving to £60 and for disqualification to be an option in the event of the case going to court.

e) Using a vehicle in a dangerous condition

This measure will introduce a mandatory disqualification for a second or subsequent offence of using a vehicle in a dangerous condition within a 3 year period.

¹¹ Proposal for an offence of using a hand held mobile phone while driving, DfT, August 2002

The Government views this as a serious offence and considers repeat offending particularly blameworthy. It recognises that responsibility also lies with the vehicle owner/consignor but feels that the driver should also be accountable for talking an unsafe vehicle on to the road. This proposal was consulted upon as part of the Review of Road Traffic Penalties and received a high level of support.

f) Non use of rear seat belts by children

At present if a driver is convicted of the offence of carrying a child who is not using a seat belt or child restraint in the front of a car, a fine of not exceeding level 2 (£500) is available. The same offence, but in respect of the rear seat is only subject to a level 1 fine (£200).

The Government believes there is no justification for such a difference and we propose to raise the rear seat penalty to a level 2 fine.

Road Traffic Penalties - Overall Impact:

The above proposals deal exclusively with the punishment of individuals breaking existing road traffic law. There is no perceived impact on business, charities or voluntary sector. Furthermore a public services threshold test has been carried out and this has indicated that there is no need for a RIA to be produced. The provision will not therefore be subject to further examination.

Contact Point:

Robert Davies
Driver Safety Division
Department for Transport
Tel: 020 7944 2045
Email: robert2.davies@dft.gsi.gov.uk

Speed Exemptions

This proposal only effects individual drivers who, in certain situations, would no longer face prosecution for driving over the speed limit. At present, only vehicles used by the emergency services (fire brigade, police and ambulances) are permitted to exceed speed limits.

The legislation being sought will create an order making power that will allow the Secretary of State to determine whether other vehicles, in prescribed circumstances, could be exempt from speed limits - the Department would then draft the necessary Statutory Instrument (SI) pertaining to the organisation granted an exemption. Requests for speed limit exemptions would be considered on a case by case basis and each SI would be tailored to meet the needs of the individual organisation. Any organisation granted an exemption would also need to satisfy the Department's Code of Practice as regards driver training and terms and conditions as to when a speed limit may be broken. Additional training costs are expected to be minimal, as exemptions are unlikely to extend beyond the public sector. We would expect these public sector organisations to already have provision for these training needs within their existing budgets.

In summary, until secondary legislation is enacted there will be no impact from this proposal. However, the Government will, as part of the process involved in considering whether an organisation may be granted an exemption, undertake a public services threshold test and produce an RIA if appropriate.

Contact

Caroline Britt
Driver Safety Division
Department for Transport
Tel: 020 7944 2252
Email: caroline.britt@dft.gsi.gov.uk

Retraining courses as a court disposal for speeding, careless driving and other offences

This proposal, which was recommended in the Review of Road Traffic Penalties will give courts the option to give road traffic offenders in certain circumstances the opportunity to attend, at their own expense, a driver retraining programme.

If successful on the programme, the offender would either get a reduction in his disqualification period, or a remission of penalty points.

The measure deals exclusively with the punishment of individuals breaking existing road traffic law. Increased use of retraining will create an amount of additional business for those who provide such courses, with no detrimental effects. There is no other expected impact on business, charities or voluntary sector. The only people that will be affected by the change are those who break road traffic law. Furthermore a public services threshold test has been carried out and this has indicated that there is no need for a RIA to be produced. The provision will not therefore be subject to further examination.

Contact Point:

Robert Davies
Driver Safety Division
Department for Transport
Tel: 020 7944 2045
Email: robert2.davies@dft.gsi.gov.uk

Banning the Carriage of Speed Enforcement Detection & Jamming Devices

Purpose and intended effect of measure

The objective

The overall objective is to contribute to a reduction in speeding by making it unlawful for people to carry in their vehicles devices that detect the presence of police speed enforcement radar equipment.

Research, both in the UK and internationally, indicates that excessive speed (driving above the speed limit) increases considerably the risk of a road accident occurring resulting in death or serious injury.

The Road Traffic Act 1991 amended the law so that Courts could accept evidence of speeding from type approved photographic equipment accompanied only by a certificate signed on behalf of the relevant police force. As a result the police began using cameras to enforce speed limits and various studies have since shown them to be highly effective at slowing traffic and reducing collisions, fatalities and injuries.

In 1996 the Home Office published a cost benefit analysis of traffic light and speed cameras¹² that showed a 28% reduction in accidents at speed camera sites. In 1997 the London Accident Analysis Unit published an analysis of accident and casualty data 36 months after the implementation of a number of speed cameras in West London with 36 months worth of "before" data. The key finding was that fatal accidents reduced from 62 in the 3 year before the period to 19 in the three year after period. A saving of at least 43 lives¹³.

A system that allows some fixed penalty speeding fine revenue to be used to cover the costs associated with purchasing, deploying and operating cameras has been in place since April 2000,

¹² Cost Benefit Analysis of Traffic Light and Speed Cameras. Andrew Hooke, Jim Knox and David Portas. 1996

¹³ West London Speed Camera Demonstration Project, London Accident Analysis Unit, 1997.

initially as a trial and since 2001 as a national programme. Only a handful of police force areas in GB remain outside the scheme.

The three-year evaluation report of the cost recovery programme that covered 24 partnership areas of the country and included over 2,000 camera sites was published on 15 June. It recorded a 40% reduction in death and serious injury at camera sites which equates to around 870 fewer people killed or seriously injured per annum. In addition, there was a 33% reduction in personal injury collisions, which translates into a reduction of 4,030¹⁴.

The increase in camera use has opened up a market for those who supply devices that alert drivers to the presence of speed cameras. The intention is to make it unlawful for people to carry in their vehicles devices that detect the presence of police speed enforcement radar. It does not seek a similar ban on devices that inform a driver of the presence of speed enforcement equipment by the use of a Global Positioning System (GPS).

The background

Until a court ruling in January 1998 the use of devices to detect the presence of police enforcement radar was considered to be illegal under the Wireless Telegraphy Act 1949. In 1989 secondary legislation (the Wireless Telegraphy Apparatus (Receivers) (Exemption) Regulations) removed the need to apply for a licence to use receivers of electrical emissions, like those that detect enforcement radar. This meant that the use of receivers was only illegal if they intercepted a signal or message. Since 1989 users of radar detectors were successfully convicted of this offence. However, the January 1998 judgement ruled that the radar beams emitted by speed cameras and police hand held "speed guns" were neither signals nor messages. This left little room for prosecutions.

There is no difficulty with drivers carrying in their vehicles devices that inform them of the location of fixed safety cameras and cameras operating from mobile units. These have the same intention as the signing, visibility and conspicuity rules that form part of the financial scheme under which most cameras are placed. These devices operate currently under Global Positional Systems (GPS). They work by keeping the position of cameras up to date on a computer and identifying where they are in relation to a vehicle by use of a satellite. There is no intention to ban these.

There are two other types of devices that we are seeking to ban. The first is the jammers. These devices prevent cameras from working by deflecting the beam issued by the camera equipment or preventing the beam from emitting. They are particularly dangerous in that they prevent speed enforcement cameras from operating and therefore allowing drivers to continue to speed past the camera site. Also contained within this definition are those sprays, materials, etc that obstruct the view of a number plate.

We are also seeking to ban the carriage of radar detectors. These identify where cameras are by sending out a radar beam that detects the signal emitted by the camera equipment. There are two problems with these -

- They can set off non-camera equipment such as automatic doors and may interfere with satellite TV
- More importantly, the police have genuine concerns about the use of detectors. In addition to camera deployment within the safety camera cost recovery scheme the police also undertake covert activity and speed limit enforcement as part of their normal traffic duties. The fact that these devices can detect both covert camera activity and non-camera/cost recovery laser/radar guns could seriously effect their ability to enforce speed limits as part of their normal traffic duties.

Risk assessment

¹⁴ National Safety Camera Programme - 3 year evaluation report, PA Consulting, June 2004

The increase in the use of safety cameras has coincided with the inability of the law to control the spread of these devices. In order to try and reduce the possibility of being caught speeding an increasing number of drivers have purchased camera detectors. Once limited to mail order, detectors are now sold quite legitimately through major national outlets such as Halfords and Argos. We do not know how many of these are sold per day, week, month or year, and no governing body for the industry now exists who might be able to furnish an estimate. At one time there was the Drivers' Technology Association but this appears to have disbanded.

However, we do know that the vast majority of those now sold to drivers are the information systems that use GPS. The problem that is emerging, however, is that an increasing number of devices, while primarily GPS information systems, also have a detection capability. The proposed ban would require those devices to have the detector capability removed.

The economic value of preventing injury crashes is estimated to be around £17 billion per year¹⁵. This figure takes account of lost output, medical and ambulance costs, the total cost of police work, insurance and damage to property. Although we have no precise figures for speed related crashes, the best estimate is that they account for around 30% of all collisions on the roads. Reducing accidents by that sort of amount might save the community around £100 million per week. Even taking a cautious approach by assuming excessive speed might account for just 10% of all accidents would still make savings of around £35 million per week.

Options

Option 1: Do nothing.

This would obviously benefit the industry in that it would retain the ability to supply detectors. The benefits to those manufacturing or retailing these devices are obvious in that they would be given the green light to continue supplying them.

There would be no road safety benefits to taking no action. But as explained above this would leave open the possibility of jammers or diffusers being promoted and sold with the effect of potentially hampering the police's ability to enforce the law. This might also compromise our ability to hit the published casualty reduction targets for 2010.

There would be no cost to the industry but considerable cost to the community in calculating the cost of dealing with crashes, fatalities and serious injuries.

Option 2: Seek from the industry a voluntary code of practice.

This is a fragmented industry that is difficult to approach as a single unit. The likelihood of reaching agreement on a code of practice would be minimal.

Options 1 and 2 would have no effect on the sale of devices that prevent the police undertaking speed enforcement as part of their normal traffic duties. It is vital that this ability is retained. The Department was challenged in court in 2002 by Transport 2000 and others about the legitimacy of the safety camera visibility and conspicuity rules. They claimed that making cameras so obvious to drivers encouraged speeding elsewhere. Part of the reason for the challenge failing was the understanding that the police could and did enforce speed limits away from camera sites using other hand held equipment. If the police ceased to undertake this type of enforcement it might encourage another legal challenge.

Option 3: Legislate to outlaw the carriage and use of devices that can detect speed enforcement devices but allow the speed enforcement information systems.

This is what is being proposed.

¹⁵ Highways Economic Note No.1: 2002, DfT, November 2003

Legislation

The intention is to ban the jammers and detectors through legislation in a Road Safety Bill. It is proposed that the Bill will contain prospective powers for the Secretary of State to make an order prescribing what would be illegal to carry and use in a vehicle.

Benefits

Economic & Social

Should legislation be brought in, the road safety benefits are clear. The existing GPS systems can contain information including the location of all approved speed camera sites in the country and the speed limits that apply there. Providing this information to drivers can only improve the prospects of drivers amending their speeds in order to comply with limits at or near camera sites. What these systems cannot do is *detect* the presence of a speed enforcement device as one is approached. This means that the police can retain the ability to enforce speed limits as a normal part of their traffic duties. We do not know how many SEDDs have been sold or are likely to be sold. We are confident that very few diffusers are now being sold. They have been found to be unreliable in comparison to the GPS systems.

Environmental

No discernible environmental benefits have been identified.

Costs

Economic

The size of the market is unclear. There appears to be four main manufacturers/suppliers of devices all of which are now specialising in the GPs and joint GPS/detector systems. There are a number of smaller concerns supplying devices that interfere with the operation of speed enforcement equipment, those that we are seeking to ban.

The GPS systems cost from around £250 with the top of the range costing up to £400. The detectors and diffusers cost considerably less. All devices are available from major shopping outlets and also via websites. As there is now no governing body in existence for these manufacturers and suppliers it is not possible to estimate how many have been and are being sold.

Those firms supplying the diffusers or stand alone detectors will need to cease doing so. This is now a small section of the market. Those who produce and/or supply joint GPS and detectors will need to incur costs to adapt their systems. It is unclear how much that would cost them to undertake this.

However, once it became clear to the suppliers that only information systems remained legal they would be in a position to promote their products as useful road safety tools and claim at least tacit government support for their products. This might boost their profile and cover any shortfall caused by the ban on the detectors.

Banning the detectors would have no effect on charities and the voluntary sector. The road safety groups, all of which are contained in the voluntary sector would fully support the banning of detectors.

Continual contact has been maintained with the industry within the confines of there being no reliable governing body. Since the court ruling in 1999 it has been made fully aware of the intention to legislate to make SEDDs illegal. A full public consultation was undertaken in 2002 where the broad intention to ban the diffusers and detectors was identified. Those parts of the industry that have taken the decision to produce or continue to produce detectors have done so in the full knowledge of the certain ban.

In addition it has been calculated that the average cost of a collision, with respect to casualty costs, is approximately £55,000. These include costs associated with lost output as well as medical and

ambulance services. The three-year evaluation report of the national safety camera programme estimated that 4,030 fewer personal injury collisions occur annually as a result of safety cameras being in place across the 24 areas at that time participating in the programme. The annual economic benefit of the camera activity is, therefore, at least £221 million. There are now 36 areas within the programme so the benefits would be greater.

The speed enforcement detectors and diffusers undermine the use of all speed enforcement equipment. Their use allows drivers to believe they can speed unless alerted to the presence of speed enforcement. That would run the very real risk of reversing the trend in reducing those killed or seriously injured on our roads resulting in economic costs to the community.

Environmental & Social Costs

No discernible environmental costs have been identified.

No figures can be placed on the social cost of road accidents. All accidents affect families, particularly those resulting in death or serious injury. Any activity that adversely effects road safety, which jammers and detectors do, will have an unspecified social cost.

Competition assessment

This is a fragmented market with many devices being provided for sale from numerous businesses. While one or two firms might have 10% of the market or more, it is unlikely that any would have at least 20% of the market; and the largest three firms would not provide over half of those sold. The only businesses likely to be affected significantly are those manufacturing or providing just the detectors. The others will be able to create new business opportunities by expanding their interests in the GPS based information systems.

There is no question that the lion's share of the market is now the GPS information system. These are developing rapidly and can contain all sorts of additional information to assist drivers in their driving. For example, they can alert drivers to posted speed limits, the approach to schools and hospitals and the location of accident black spots. Once the shadow of a potential ban for SEDDs generally is removed via legislation, these devices can be promoted as genuine road safety aids and their production and sale expanded considerably.

Securing compliance

The police are keen to see their powers to prosecute motorists who carry and use these devices reinstated and are in favour of this legislation. The need to enforce the new law has the full support of the police who do not see this as adding any real cost or burden to their duties.

The manned speed enforcement equipment can identify when a jammer is being used. Checks of these vehicles in the vicinity of the detection equipment can then be carried out by the police to identify which one is carrying the device. It is not possible for the enforcement equipment to know when a detector is being used. The automatic enforcement that is carried out from fixed site speed cameras is unable to alert the police to any interference with their operations. Most enforcement with the new requirements will rely therefore mostly on random checks.

The proposal would create an offence of carrying a detection device in a motor vehicle. The offence would attract either a fixed penalty notice (currently £60) with a three to six point licence endorsement.

Monitoring and review

Given we have no baseline data on the number of units of any type in circulation and use there is no really objective measure of the effectiveness of the ban.

Following legislation coming into effect the only evidence of effectiveness of the policy would be an indication of whether the market adapted by only advertising allowed GPS devices, and also the extent of feedback from the police about prosecutions against those using banned devices.

Consultation

It was originally envisaged to ban certain devices through secondary legislation and a full consultation was undertaken on a draft Statutory Instrument. Responses to the consultation predictably were supported by the police and road safety groups but opposed by those manufacturing and supplying the detection devices, as well as some people who either had purchased a detector or were opposed to speed management.

What the consultation did reveal was that the technology had progressed rapidly and the main few manufacturers were concentrating on producing the GPS information systems. This prompted us to move away from seeking a blanket ban and move instead to seeking to make illegal the deflectors and detectors but allowing the GPS systems. It is the latter that now constitutes the majority of the market.

Recommendation

There is no evidence available that the banning of speed enforcement diffusers and detectors will have any significant adverse effect on business. Indeed, once government acceptance of the GPS information systems is enshrined in law, that might act as a stimulant to the manufacture and sale of those devices.

The greater risk is to road safety if no action is taken. Failure to ban these devices might seriously undermine the ability of the police to enforce speed limits and, by implication, the government's ability to achieve planned reductions in road accident casualties.

Contact:

Lesley Read
Driver Safety Division
Department for Transport
Great Minster House
76 Marsham Street
London
SW1P 4DR
Tel: 020 7944 2452
Email: lesley.reed@dft.gsi.gov.uk

Changes to the Drink Drive Rehabilitation Scheme

Introduction:

The Drink Drive Rehabilitation Scheme has been in operation nationally since 2000. It has proved successful at making those who satisfactorily complete a course up to 3 times less likely to reoffend¹⁶. The legislation that defines the scheme is contained at sections 34A to 34C of the Road Traffic Offenders Act 1988 (RTOA) and the subsequent regulations set out in The Road Traffic (Courses for Drink-Drive Offenders) Regulations 1992 (SI 1992/3013) and The Courses for Drink-Drive Offenders (Designation of Areas) Order 1992 (SI 1992/3014).

The current administrative framework as specified in the RTOA is proving to be cumbersome to administer and prevents the adoption of certain practices that would improve the take-up of rehabilitation courses by offenders. Furthermore the present legislative framework does not expressly provide for monitoring and ensuring the quality control of courses and course providers. This RIA is therefore split into three sections, each dealing with a particular aspect of these problems.

¹⁶ The Drink/Drive Rehabilitation Scheme: evaluation & monitoring. Final Report, TRL Report TR613, 2004

Part 1: Cumbersome Administration

Objective:

To improve the present Drink Drive Rehabilitation Scheme to reduce the administrative burden to courts and course providers. The proposal will affect all courts in England, Wales and Scotland that refer offenders to drink drive rehabilitation courses, drink drive offenders and those organisations that provide the courses including: private companies, NHS trusts, county councils and charitable organisations.

Background and Risk Assessment:

When an offender resides outside the Petty Sessional Division of the sentencing court, he/she is sentenced by that court and leaves the court with a referral order specifying the approved course (in practice, the details of the relevant course provider). The case is then transferred to a supervising court in the Petty Sessional Division where the offender resides. In the majority of cases the offender has no further need to appear in court, the rest of the process is dealt with administratively.

This requires any certificate of completion to be sent to the supervising court by the course organiser. The supervising court then sends the case file, upon completion, back to the sentencing court, which then files the paperwork. This results in an extra level of unnecessary court bureaucracy and can cause confusion amongst both the course-providing organisations and the offenders when they need to refer to the court.

Options

Option 1 - Do nothing

The Drink Drive Rehabilitation Scheme is expanding with more referrals each year and is likely to continue to do so. The numbers of offenders successfully completing a Drink Drive Rehabilitation course have risen year on year with over 30,000 in 2003 out of a total of over 110,000 successful completions since 1999. Therefore any inefficiencies in the administration of the scheme will be compounded by this expansion.

Option 2 - Remove the Supervising Court Completely

This would remove all necessity for any extra paperwork or administration. The sentencing court would handle the matter in its entirety. This would present problems for those offenders who required or wished to return to court for whatever reason, e.g. to request a change of course provider or if they wished to appeal against the decision of a course organiser. In effect it would be restricting access to the law as not all offenders would find it convenient or possible to attend the court where they were sentenced.

Option 3 - Remove the Distinction between Sentencing and Supervising Court

The sentencing court would remain the supervising court in the majority of cases, handling the administrative process entirely unless a further hearing is required, in which case an appropriate supervising court can be appointed. Such a change should have considerable court resource savings as well as reducing confusion. There would continue to be the option for those that needed or wished to pursue, for a supervising court to be appointed, thus preventing issues regarding access to the law that arise with Option 2.

Costs and Benefits

Option 1

Economic

There will be no benefits to inaction and the cost of the inefficiencies inherent in the present system will escalate as the Drink Drive Rehabilitation Scheme expands.

Social

The existing administrative arrangements between courts can cause confusion for offenders and initially for some course providers, if nothing is done this will continue.

Environmental

No discernible environmental impacts have been identified.

Option 2

Economic

The benefits of this option would result in a resource saving through the elimination of wasted and duplicated court effort. This saving is difficult to quantify. However, given that there is an increasing annual turnover of over 70,000 referrals any reduction in duplicated effort and wasteful administration is welcomed by the courts.

There will be some small costs associated with producing and disseminating guidance on new procedures to courts and course providers. However, these changes could be incorporated into the current annual reproduction of guidance for the Scheme and would therefore represent no additional burden over the time and resource used to write the new procedures.

Social

Removing the supervisory court could, as already mentioned, present problems for those offenders who required or wished to return to court.

Environmental

No discernible environmental impacts have been identified.

Option 3

Economic

The benefits of this option would be in the same region as those for option 2, minus the extra administration required to deal with the few offenders who still require a supervising court: e.g. those who appeal (less than 10 a year). The costs would be of the same order as in option 2 as well.

Social

This option would guarantee those requiring it, access to a local supervising court, thus overcoming the access to the law issues identified with option 2.

Environmental

No discernible environmental impacts have been identified.

Part 2 - Offering More Flexible Payment

Objective:

To increase the number of people taking up the offer a Drink Drive Rehabilitation Scheme.

Background and Risk Assessment:

Legislation currently requires full payment to be made in advance of beginning a Drink Drive Rehabilitation course. Course providers can set their own level of fees within a guideline of £50-250, set out by the Secretary of State in guidance. Courts in conjunction with offenders are free to choose the course-providing organisation that they use. Approximately only 35% of all offenders referred to a

course actually go on to complete it. Research conducted by The Transport Research Laboratory (TRL)¹⁷ has indicated that the most common reason given by offenders for not attending is cost and the difficulty of paying for the course. A survey conducted by one of the largest course-providing organisations also confirms this, finding that despite requiring payment in advance of completion only 80% of attendees had done so.¹⁸

Options

Option 1 - Do nothing

The cost of a course and the requirement to pay in advance would remain a barrier to some in taking up a course, having a disproportionate effect on those on low incomes.

Option 2 - Reduce / Subsidise Fees

This could encourage more offenders to take up the offer of a course. However, we believe there is sufficient incentive for the offender to undertake a course with the offer of an early return of the licence. The concept of the scheme relies to some extent on the active participation of the offender, which is encouraged in some cases through payment. In addition there is enough competition in the course providing market to ensure that fees are kept at a reasonable level and the majority of providers already make concessions for those on low incomes.

Option 3 - Allow Greater Flexibility in Fee Payment

This would allow those offenders, who apply late, more time to budget for payment of fees and encourage more of those offenders who genuinely want to participate in a course to overcome the problem of payment. However, this would not have the same effect as subsidising courses on take-up, so the high levels of motivation seen amongst present participants would not be jeopardised.

Costs and Benefits

Option 1

Economic & Social

There are no costs associated with option one, and there are no benefits. The Scheme would continue as at present and take up would remain the same. Those on low incomes would continue to be adversely affected.

Environmental

No discernible environmental impacts have been identified.

Option 2

Economic & Social

The subsidisation of the course fee would have financially significant implications and would run contrary to the whole self-financing principles of the scheme. The exact extent of the cost would be hard to gauge, as any decrease in course fee would effect a relative increase in take-up. The benefits would depend upon the amount of subsidy and the resultant increase in take up. However, extra take up may not necessarily result in a relative reduction in re offending, as a course that costs next to

¹⁷ TRL Report PR/SE/554/02, Drink Drive Rehabilitation Courses: Survey of Non-Attendees, by J Stone, S C Buttress and G P Davies

¹⁸ Information provided by TTC Ltd for June 2004 as an average representative month. TTC Ltd. account for approximately 30% of courses run across the country

nothing may not illicit the necessary co-operation and effort from the offender to bring about the present rehabilitative effect.

Environmental

No discernible environmental impacts have been identified.

Option 3

Economic & Social

Allowing course providers to accept payment after the course has started would not present any extra cost to the scheme, as successful completion would still require full payment of fees. The incentive to pay would still remain but the additional flexibility would remove an obstacle for those offenders with a genuine desire to complete a course but with limited financial means to pay all fees in advance. This would improve opportunities to participate for those on low-incomes.

Environmental

No discernible environmental impacts have been identified.

Part 3 - Monitoring Arrangements

Objective

To ensure that the quality of Drink Drive Rehabilitation Course provision across Great Britain meets the required standard.

Background and Risk Assessment

Under the current legislative provisions, the Secretary of State's role in the approval of courses is clearly specified (section 34A(2)). The Secretary of State may also issue guidance to course organisers who are required to have regard to it (section 34C(1)(a)). The guidance includes minimum requirements for courses. Compliance with these standards is checked by the Department for Transport officials through visits to courses and annual reports. During the course of which we have become aware of cases of poor practice and contravention of the guidance. However, the current legislative framework does not define the Secretary of State's role with respect to course providers nor does it include express provision for the Secretary of State to withdraw approval for any deficient course or course provider. In addition, there are no express statutory provisions governing the monitoring of the scheme and no express appeal provisions for course providers. If any deficient course or course providers cannot be adequately dealt with then the quality and reputation of the scheme will deteriorate and its present success in reducing reoffending will be jeopardised.

Options

Option 1 - Do Nothing

Commercial pressures in certain areas of the country have seen increased pressure on providers to ensure profitability at the possible expense of standards. Without adequate supervision and a clear power to remove those providers from the scheme that do not provide an adequate service, there will be no disincentive to provide poor quality courses and minimum requirements will be in danger of being breached as a matter of course.

Option 2 - Legislate for a Monitoring and Disciplinary Procedure

Giving the Secretary of State adequate powers to prescribe in regulations provision in relation to the making of applications for approval, the monitoring of courses and course providers and withdrawing approval would mean that all courses are run at the required standard and quality would be ensured. The Secretary of State would be able to prescribe what was required of course providers and set out a right of appeal for them. This would clarify and improve the present arrangements.

Costs and Benefits

Option 1

Economic & Social

There would be no additional costs associated with this option and no benefits.

Environmental

No discernible environmental impacts have been identified.

Option 2

Economic & Social

There would be no cost associated with the legislation to those organisations that currently operate within the minimum requirements. Any organisation operating outside the minimum requirements may incur costs in bringing standards into line with the requirements. A corollary of which may be a slight increase in prices where course-providing organisations readjust their fee structure. However, market forces will ensure that fees are kept to an acceptable level. More detailed analysis will be undertaken when the regulations detailing the specifics of the arrangements are laid. These would be worked up in conjunction with the course providers and would be subject to further consultation.

Environmental

No discernible environmental impacts have been identified.

Consultation (Parts 1, 2 & 3)

Consultation has taken place with key courts stakeholders in the form of a working group including representatives from: Department for Constitutional Affairs, Justices' Clerks Society, Association of Justices' Chief Executives, and the Magistrates' Association.

Regular contact is maintained with the course-providing organisations through the regular biannual meetings of the representative body ADDAPT, through direct contact with organisations and through seminars held by the Department. The majority of course-providing organisations support the introduction of more stringent quality control measures, the removal of supervising courts and the introduction of flexibility to fee-payment. However, most organisations were also concerned that full-payment remained a requirement for successful completion and that any flexibility in payment of fees, should be at the discretion of the individual course-providing organisation.

Monitoring and Review (Parts 1, 2 & 3)

The Transport Research Laboratory (TRL) conducts ongoing monitoring research of the re-offending rates of course participants versus non-participating drink-drive offenders on behalf of the Department. The current re-offending rate of participants should maintain its position or decrease relative to non-participants over 10 years, if the quality of rehabilitation is to have been maintained. Take-up is measured quarterly through monitoring statistics provided by the course-providing organisations. There is a general upwards trend in referrals and we would expect to see this maintained. In addition we would expect to see a moderate increase in the numbers of completions as a proportion of referral, due to more offenders being referred and taking up a course.

Summary and Recommendation (Parts 1, 2 & 3)

Part 1 - Cumbersome Administration

Option	Costs	Benefit
--------	-------	---------

Road Safety Bill Regulatory Impact Assessment (RIA)

1. Do nothing	No additional costs; as scheme expands present inefficiencies will cost more	None
2. Remove Supervising Court	Cost of distributing guidance absorbed into normal running costs	Completely removes inefficient duplication of effort
3. Remove distinction between sentencing and supervising court	Cost as above for option 2	Removes majority of inefficient duplication of effort, and does not impact upon access to justice

Recommended Option: 3

This option delivers the majority of the benefits gained by removing the inefficient administration associated with passing all cases from the sentencing court to a supervising. However, it does not affect the current ability, of those who so desire, to have a case heard in a court near where they reside.

Part 2 - Offering More Flexible Payment

Option	Costs	Benefits
1. Do Nothing	None	None
2. Subsidise Fees	Significant costs dependent upon the level of subsidy	Increased take-up of courses, however, less likely to decrease re-offending
3. Introduce Flexible Payment	None	Smaller increase in take-up, but reduction in re-offending to remain as at present

Recommended Option: 3

Flexible fees have no costs associated with them and would not affect the rehabilitative effect of the scheme, which could be jeopardised by encouraging more offenders onto the scheme who have no interest or commitment to its aims.

Part 3 - Monitoring Arrangements

Option	Costs	Benefits
1. Do Nothing	None	None
2. Legislation	None	Secretary of State would have clear powers in relation to the making of applications for approval, monitoring of courses and course providers and withdrawing approval. The Secretary of State would also be able to make provision for a right of appeal for course providers.

Recommended Option: 2

Road Safety Bill Regulatory Impact Assessment (RIA)

Legislation would ensure the framework for action would be in place should any of the approved courses or course providers prove deficient This would ensure that Drink Drive Rehabilitation Courses were of the required quality and would deliver the desired rehabilitative effects.

Contact

Eirik Pitkethly
Driver Safety Division
Zone 2/11
Great Minster House
76 Marsham Street
SW1P 4DR
Tel: 020 7944 2454
Fax: 020 7944 9618
Email: eirik.pitkethly@dft.gsi.gov.uk

Section 2 - Improving driving standards

Section 2 - Summary of Contents

Driving Standards Agency Proposals

Introduction

The Driving Standards Agency (DSA) is an Executive Agency of the Department for Transport (DfT) that has responsibility for driver training and testing in Great Britain. The Agency conducts around 1.6 million driving tests each year and regulates some 33,000 approved motor car driving instructors, 3,700 motorcycle instructors and around 650 approved training bodies associated with delivering motorcycle training.

Within the Road Safety Strategy, DSA is committed to introducing a number of measures that will contribute towards achievement of the Government's targets for reducing road casualties by 2010:

- Setting standards for drivers, riders and trainers;
- Improving driver education and learning resources
- Registering and supervising quality-assured instructors; and
- Improving effective and efficient assessments, conducted as computer-based and practical tests.

Legislative Framework & Consultation

The majority of amendments to the Road Traffic Act 1988 (RTA) that DSA is seeking involve the granting of legal powers to the Secretary of State to extend the use of secondary legislation.

The use of secondary legislation will enable DSA to progress the various strands of the Strategy in a co-ordinated manner and facilitate a staged consultation process with stakeholders from the driver training industry and those with an interest in road safety. It will also provide greater flexibility in defining the precise nature of the changes (eg by enabling DSA to revise its proposals in the light of stakeholder feedback). Regulations made under these powers will be subject to stakeholder consultation and the production of Regulatory Impact Assessments (RIAs). A firm commitment to stakeholder consultation is evidenced by the proposal to make mandatory consultation on changes to Part V RTA. These amendments have no direct effect on stakeholders. Such effect would arise only when regulations were made under the proposed powers.

There are some proposed amendments to RTA that would have direct effect but no impact. For example, changing the definition in s123 RTA from "*motor car*" to "*motor vehicle*" would have no impact on stakeholders until regulations were subsequently made to extend the ambit of driver training registration from cars to other forms of motor vehicle. It is, therefore, considered more appropriate that when consultation with stakeholders takes place the production of an RIA should, at that time, form part of the regulation-making process.

Some of the proposed amendments would have direct effect and impact. They would impact upon those persons and organisations that were non-compliant (i.e. fraudsters). For example, providing penalties for the fraudulent misuse of compulsory logbooks would only affect those that perpetrate fraud. Additionally, DSA does not consider that any of the amendments will create a significant effect on public service costs. Consequently, DSA does not consider that an RIA is required for this category of amendment.

Financial implications

The major costs associated with DSA's provisions in this Bill, relate to the proposal to extend the requirement for driving instructors to be registered to other classes of vehicles e.g. lorries, buses and

motorcycles. It is estimated the total costs of registration would be in the region of £2.5 million, based on the assumption that the registration process would mirror that already required for car driving instructors. Those fees are currently around £400 per head and would apply to approximately 2,000 LGV/PCV trainers and 4,000 motorcycle trainers. Should DSA implement a proposal to introduce mandatory Criminal Records Bureau checks for ADIs, the registration cost would increase by £30 per person. These costs have been included within the overall estimate of £2.5m. It should be recognised that these are estimated figures which may be revised in the light of public consultation as outlined above.

However, the likelihood is that the current registration process will change markedly as a result of the provisions being sought in this Bill. Full consultation, including an RIA, will accompany any proposals to change the existing arrangements and to extend the categories of instructor required to be registered.

Introduction of a registration process for companies providing driver training services will also result in compliance costs. DSA envisages that the registration fee for companies will be less than that for individual instructors. However, the registration process and proposed fee will be subject to full consultation and an RIA prior to implementation.

Section 2 - Summary of contents

Fee related powers

Proposal (& Extent)	Those affected	RIA or Statement
Charging an administration fee when cancelling or re-arranging a test appointment or making a test fee refund. (GB only)	DSA and driving test candidates	Statement only at this stage - public consultation & RIA will be produced before regulations are made under the power proposed
Improved provisions for collecting the registration fee (GB only)	DSA and driving instructors	Statement only at this stage - public consultation & RIA will be produced before regulations are made under the power proposed
Provision to charge fees to cover the processing charges associated with different payment methods. (GB only)	DSA and driving test candidates	Statement only at this stage - public consultation & RIA will be produced before regulations are made under the power proposed
Recovering the costs of appointing and supervising non-DSA driving examiners (GB only)	DSA and organisations allowed to conduct their own driving tests	Statement only at this stage - public consultation & RIA will be produced before regulations are made under the power proposed
Recovering the cost of reviewing theory test results (GB only)	DSA and theory test candidates who request a re-assessment.	Statement only at this stage - public consultation & RIA will be produced before regulations are made under the power proposed

Road Safety Bill Regulatory Impact Assessment (RIA)

Powers affecting the training and supervision of instructors

Proposal (& Extent)	Those affected	RIA or Statement
Register of approved instructors - proposal to specify conditions relating to the registration of driving licence disqualification. (GB only)	DSA, the Registrar and driving instructors disqualified under s.35 of the Road Traffic Offenders Act 1988.	Statement only at this stage - public consultation & RIA will be produced before regulations are made under the power proposed
Power to register instructors for different classes of motor vehicle (GB only)	DSA and those offering driving tuition in vehicle classes not yet regulated (but only once they become regulated)	Statement only at this stage - public consultation & RIA will be produced before regulations are made under the power proposed
Regulation of driving schools (GB only)	DSA and driving schools	Statement only at this stage - public consultation & RIA will be produced before regulations are made under the power proposed
Display of evidence of registration (GB only)	DSA and anyone who is registered to give paid driving tuition	Statement only at this stage - public consultation & RIA will be produced before regulations are made under the power proposed
Extending liability to franchisees as well as employees (GB only)	DSA and Driving Schools	Statement only at this stage - public consultation & RIA will be produced before regulations are made under the power proposed
Improved provisions for the qualifying exam for driving instructors (GB only)	DSA and those seeking to become driving instructors	Statement only at this stage - public consultation & RIA will be produced before regulations are made under the power proposed
Power to improve the way driving instructors are trained (GB only)	DSA, trainee driving instructors and those providing training to individuals seeking to become driving instructors	Statement only at this stage - public consultation & RIA will be produced before regulations are made under the power proposed
Period of registration (GB only)	DSA and driving instructors	Statement only at this stage - public consultation & RIA will be produced before regulations are made under the power proposed
Power for the Registrar to attach a rehabilitation period to his decisions	DSA, Registrar and driving instructors	Statement only at this stage - public consultation & RIA will be produced before regulations

Road Safety Bill Regulatory Impact Assessment (RIA)

(GB only)		are made under the power proposed
-----------	--	-----------------------------------

Publication of performance data

Proposal (& Extent)	Those affected	RIA or Statement
Publication of performance data on registered driving instructors and persons providing compulsory training courses (GB only)	DSA, driving instructors, compulsory driver trainer course providers and prospective purchasers of driving instruction	Statement only at this stage - public consultation & RIA will be produced before regulations are made under the power proposed

Miscellaneous Provisions

Proposal (& Extent)	Those affected	RIA or Statement
Inspection and certification of test vehicles, including charging powers (GB only)	DSA and some providing vehicles for a driving test	Statement only at this stage - public consultation & RIA will be produced before regulations are made under the power proposed
A new regulation making power to create exemptions from the ambit of Part V of the Road Traffic Act 1988 (GB only)	DSA and those organisations granted an exemption by the SoS	Statement only at this stage - public consultation & RIA will be produced before regulations are made under the power proposed
A new duty to consult before making changes to regulations under Part V. (GB only)	In practice no-one, as DSA already voluntarily consults on all such proposals.	Statement only - there will be no additional impact/costs to business etc.
Allow more flexibility to driving schools to book and cancel test appointments (GB only)	DSA, driving schools and test candidates	Statement only at this stage - public consultation & RIA will be produced before regulations are made under the power proposed
Power to impose conditions when granting a full licence (GB only)	DSA, DVLA, and applicable licence holders	Statement only at this stage - public consultation & RIA will be produced before regulations are made under the power proposed
Penalties for the mis-use of compulsory training logbooks and other certificates (GB only)	DSA, DVLA and those driving instructors & learner drivers engaged in fraudulent activity	Statement only - the proposal will have no impact on business etc.

The following list outlines, in more detail, those measures that DSA are seeking to include in the Road Safety Bill:

Fee related powers

(i) Charging an administration fee when cancelling or rearranging a test appointment or making a test fee refund

This amendment enables DSA to charge a fee for administration services where no such fee is currently levied (eg when cancelling or re-arranging tests at the candidate's request).

Currently, the administration cost of re-arranging a test appointment or making a test fee refund is shared by all test candidates. It is appropriate that the burden should be borne by the person requesting the change or refund. This provision will facilitate such action.

Until regulations are made under these proposed powers there will be no impact. Furthermore any regulations produced would be subject to public consultation and the production of an RIA before their introduction. Such consultation would include consideration of the level of the administration fee.

(ii) Improved provisions for collecting the registration fee

Currently, an approved driving instructor (ADI) must pay the registration fee in full at the start of the 4 year period of registration. This amendment enables the Secretary of State, when prescribing the amount of registration fee, to provide for alternatives to payment of the full sum on registration.

This provision will modernise arrangements for collecting the fee and will ease the financial burden on those seeking registration by allowing the introduction of staged payment.

Until regulations are made under these proposed powers there will be no impact. Furthermore any regulations produced would be subject to public consultation and the production of an RIA before their introduction.

(iii) Provision to charge fees to cover the processing charges associated with different payment methods.

The Secretary of State (SoS) may, by regulation, make provision for different circumstances. Candidates who wish to purchase a driving test or any of the other services offered by DSA can choose different methods to pay the fee or charge (eg cheque, postal order, credit or debit card by post, telephone or by the internet). Each method imposes varying processing charges on DSA. In pursuit of the "user pays" principle, DSA would like the payee to meet any additional costs (beyond the norm) in processing the fee. For example, if payment is made by postal order, the Agency incurs higher charges for processing this type of payment than those for other methods.

Until regulations are made under these proposed powers there will be no impact. Furthermore any regulations produced would be subject to public consultation and the production of an RIA before their introduction.

(iv) Recovering the costs of appointing and supervising non-DSA driving examiners

Current legislation allows certain organisations to conduct their own driving tests (some bus companies, fire and police forces), subject to supervision by DSA to ensure the integrity of the test. DSA cannot impose a specific fee for the supervision of these delegated examiners. The Agency seeks to recover its costs by charging for the supply to delegated examiners of certificates evidencing the results of the test. This is an unsophisticated charging arrangement as DSA's supervision costs are not directly related to the number of driving tests conducted by each delegated examiner. This provision would allow for a fee to be charged in respect of the appointment and regular supervision of non-DSA examiners. This amendment enables the SoS, by regulation, to charge fees in relation to any functions conferred on him by regulations made under s89 (3)(b).

Until regulations are made under these proposed powers there will be no impact. Furthermore any regulations produced would be subject to public consultation and the production of an RIA before their introduction.

(v) Recovering the cost of reviewing theory test results

This amendment enables the SoS, by regulation, to charge a fee where an unsuccessful theory test candidate makes a request for his test to be re-assessed. The fee will be refunded where the re-assessment results in the candidate passing the test.

Currently, the administration cost of reviewing a theory test result is shared by all test candidates. It is appropriate that the burden should be borne by the person requesting the re-assessment. This provision will facilitate such action.

Until regulations are made under these proposed powers there will be no impact. Furthermore any regulations produced would be subject to public consultation and the production of an RIA before their introduction.

Powers affecting the training and supervision of instructors

(vi) Register of approved instructors

The Register of Approved Driving Instructors (Car) was set up in the interests of road safety in order to maintain and improve the standard of car driving instruction available to the general public. It helps to ensure that the public can rely upon an acceptable minimum standard of tuition from registered driving instructors. It is administered by the Registrar under the provisions of the RTA.

Section 125 RTA requires the Registrar to enter the name of an applicant in the register of Approved Driving Instructors if the Registrar is satisfied that the applicant satisfies the conditions set out in subsection 3. One of those conditions is that the applicant has not, during any part of the preceding period of four years, been disqualified under sections 34 or 36 or the Road Traffic Offenders Act 1988 (RTOA). It is the intention to add reference to a disqualification under s35 of the RTOA. That is a disqualification resulting from the "totting up" of penalty points.

Whilst this amendment will close a loophole in the current legislation, it will not have any effect on driving instructors. The Registrar already removes from the register persons who lose their driving licence for whatever reason. However, the amendment creates greater legislative consistency regarding removal from the register of those ADIs who are disqualified from driving.

The amendment also enables the SoS, by regulation, to vary the period of registration, currently specified as four years in s125 (3) and associated provisions. This will provide additional flexibility when the requirement to register is progressively extended to other categories of driving instructor.

Until regulations are made under these proposed powers there will be no impact. Furthermore, any regulations produced would be subject to public consultation and the production of an RIA before their introduction.

(vii) A new regulation-making power to register instructors for different classes of motor vehicle, etc.

At present only driving instructors for certain types of vehicle are regulated: those involved with delivering paid instruction to motor car drivers, those involved with delivering compulsory basic training to learner motorcycle riders and those delivering 'Direct Access' training for riders of large motorcycles. Instructors delivering paid instruction for other categories of driving licence holder e.g. minibus, bus and lorry are not currently regulated. Subject to an individual holding the relevant full driving licence they can accompany learner drivers and deliver instruction for these classes of vehicle. There is no quality assurance mechanism for instruction delivered by unregulated instructors or check

on their level of experience. The Agency often receives representations from members of the fee-paying public regarding the quality of instruction delivered and lack of regulation for those sectors.

The effect of these provisions will be to allow the SoS, as appropriate, to extend the driving instruction registration requirement to other types of motor vehicle, to prescribe for different types of driving instruction by reference to the type of vehicle involved (e.g. car, bus, lorry, etc), the type of instruction (e.g. on or off-road, practical, etc) and the type of person being instructed. An example would be someone providing instruction in "blue light" driving to someone already qualified as a car driver (e.g. an ambulance driver).

Regulation of all instructors will enhance the work that the Agency is already undertaking to identify, develop and set competences to raise the quality, expertise and professionalism of driving instructors. This will ensure that the public can have confidence that the driver training services they buy are of an acceptable quality.

Having our own systems in place to improve the quality of driving instruction will also place Great Britain (GB) in a good position in respect of the *European standards for driving instructors* study, due for completion in 2005. DSA is participating in the study with a view to influencing recommendations along GB lines.

The amendment also substitutes "motor vehicle" for "motor car" in s123 RTA. Until regulations are made under these proposed powers there will be no impact. Furthermore, any regulations produced would be subject to public consultation and the production of an RIA before their introduction.

(viii) Regulation of driving schools

Currently, driving schools are not regulated. Any individual can establish a driving school and employ instructors. A driving school can operate from any type of premises and they do not have to meet any minimum criteria regarding the teaching materials, resources available for practical instruction, the type of vehicle used, or the conditions in which the training takes place. There is no quality assurance of the service delivered by driving schools.

This amendment enables the SoS, by regulation, to prescribe for the registration and supervision of bodies providing training (eg driving schools) as well as individual instructors. This will improve public confidence in the driving instruction industry and help to raise the status of those driving schools that provide a quality service.

Until regulations are made under these proposed powers there will be no impact. Furthermore, any regulations produced would be subject to public consultation and the production of an RIA before their introduction.

(ix) Display of evidence of registration

Those driving instructors that are currently regulated (i.e. ADIs) are only required to display their DSA approved instruction certificate in the car whilst they are giving paid instruction. The certificate provides a photograph of the instructor, their name and registration number, and date of issue and expiry of the certificate. This amendment enables the SoS, by regulation, to prescribe the manner in which those giving paid driving instruction in driving a motor vehicle must display evidence of registration.

The intention is that the evidence of registration should be displayed in the classroom, on the business premises and in his vehicle when used for driver training or testing. These measures should help to reassure the public that they are purchasing services from a reputable instructor and provide a mechanism for identifying instructors should a customer have a complaint. DSA will also be able to quantify the pupil pass rates of individual instructors and thereby identify those who need further professional development.

Until regulations are made under these proposed powers there will be no impact. Furthermore, any regulations produced would be subject to public consultation and the production of an RIA before their introduction.

(x) Extending liability to franchisees as well as employees

This amendment extends s135(3) RTA so as to include persons wrongly using a prescribed title, etc in relation to any person who is a franchisee of theirs. This provision closes the current loophole whereby driving schools cannot be held to blame when a franchisee fraudulently purports to be a registered instructor. Driving schools will have to accept responsibility for ensuring that their franchisee is a registered instructor. Such checks could be as simple as ensuring the trainer's DSA authorisation is valid and as such will incur no additional costs to business. Indeed this check should already be standard practice.

This provision will provide members of the public with greater confidence in the quality of the service they are purchasing. Although the amendment has direct effect, it will only impact on those who perpetrate fraud.

(xi) Improved provisions for the qualifying exam for driving instructors

The current process for becoming an ADI is via a three part examination prescribed in legislation. The examination must be taken in stages and takes no account of prior learning or qualification or of new information and technological developments in assessment techniques. This amendment removes the existing stipulation at s125(3)(a) RTA, in respect of the nature of the examination and replaces it with an updated provision enabling the SoS, by regulation, to define the qualifying examination and make it more relevant to today's training and education environment.

This provision provides the flexibility required to adapt the examination requirements to specific situations (eg where the candidate has already passed one element of the examination on a different class of vehicle) and to facilitate the introduction of technological developments (e.g. vehicle simulators).

Until regulations are made under these proposed powers there will be no impact. Furthermore, any regulations produced would be subject to public consultation and the production of an RIA before their introduction.

(xii) A new regulation-making power to improve the way driving instructors are trained

Currently, training provided to those intending to become driving instructors is largely unregulated and of questionable quality.

These amendments enable the Secretary of State, by regulation, to approve and regulate those persons and organisations providing driver instructor training. The regulations may also specify the type of training to be undertaken and provide flexibility, by way of exemptions, to meet individual needs (e.g. accreditation of prior learning). The regulations will also provide for appeal arrangements (e.g. where approval is refused or conditions imposed).

To discourage the mis-use of the exemption arrangements, it is necessary to create an offence in respect of the fraudulent use of the certificates produced in support of claims for exemptions. (See section xxi below)

In summary, these amendments allow the SoS to exercise greater control over the quality of the training received by intending driving instructors and facilitate the introduction of a scheme for their continuing professional development. The amendments will also enable DSA to recover the costs associated with exercising these functions.

Until regulations are made under these proposed powers there will be no impact. Furthermore, any regulations produced would be subject to public consultation and the production of an RIA before their introduction.

(xiii) Period of registration

This amendment enables the Secretary of State, by regulation, to vary the registration period for different classes of instructors. Currently, motor car driving instructors are registered for a period of 4 years, before the end of which they must undertake a test of continued ability and fitness to give instruction in the driving of motor cars. Motorcycle instructors are certified to deliver instruction for 4 years during which time they must be quality assured by a DSA examiner.

Should a requirement be introduced for bus, minibus or lorry driving instructors to be registered, the likelihood is that some of those instructors would already be registered as car driving instructors. This provision would enable the two registrations to be so arranged that they ran concurrently and expired on the same date. This would limit the burden of the new provisions upon existing instructors.

Until regulations are made under these proposed powers there will be no impact. Furthermore, any regulations produced would be subject to public consultation and the production of an RIA before their introduction.

(xiv) Power for the Registrar to attach a rehabilitation period to his decisions.

This amendment enables the SoS, by order, to specify the maximum rehabilitation period that the Registrar may impose in respect of his decisions and to provide for appeals to the Transport Tribunal in respect of any such period of rehabilitation.

At the present time, motor car driving instructors must satisfy various criteria, including the 'fit and proper' condition to gain entry and to remain on the ADI register. If they do not satisfy this condition, the Registrar may refuse them entry or withdraw them from the register, resulting in them being unable to work as a paid motor car driving instructor. This is usually due to criminal offences, but no distinction can be made for the severity of the offence. The Registrar is unable to specify the period during which a further application will not be entertained. This provision aligns his powers with those of the appellant authority (the Transport Tribunal) in respect of a rehabilitation period. For example the Registrar could impose a requirement whereby an application for re-registration would not be considered for 12 months in respect of an ADI who had committed a minor offence. However a longer period could be imposed in respect of a more serious crime.

Until regulations are made under these proposed powers there will be no impact. Furthermore, any regulations produced would be subject to public consultation and the production of an RIA before their introduction.

Publication of performance data

(xv) A new provision relating to the publication of performance data about registered persons.

This amendment allows the SoS, by regulation, to make available performance information (but not sensitive personal data) that the Registrar has obtained in connection with his responsibilities under Part V RTA. That data may be disclosed to a third party and reasonable charges may be made for its provision.

The purpose of this provision is to permit the publication of data to facilitate customer choice, (i.e. to help potential users of driver training services to make informed decisions regarding their choice of instructor or training provider). It will also assist instructors and training providers to publicise their services. Currently, customers have little objective or reliable information on which to base their decisions when selecting instructors or training providers.

Until regulations are made under these proposed powers there will be no impact. Furthermore, any regulations produced would be subject to public consultation and the production of an RIA before their introduction.

Miscellaneous provisions

(xvi) Inspection and certification of test vehicles, including charging powers

This amendment enables the SoS, by regulation, to require a vehicle used for driving test purposes to be inspected, require the certification of such vehicles, specify the manner of certification, provide for the length of validity of a certificate, charge a fee for the inspection and the issue of the certificate and provide for different classes and circumstances.

European legislation (Directive 2000/56/EC) prescribes EU-wide higher standards for vehicles used for driving tests with which Great Britain must comply. These standards were introduced to ensure that driving test candidates take their test in a vehicle that is more representative of the class of vehicle that they would drive after passing their test. Currently a candidate could take a test in a lorry weighing 10 tonnes and, having passed the relevant test, immediately drive vehicles of up to 44 tonnes. In terms of road safety, imposing higher minimum test vehicle standards means that the driver is at least familiar with the handling characteristics of larger vehicles of that class.

When conducting driving tests it is difficult for test examiners to establish whether a vehicle (particularly LGV) used for a practical test meets the minimum test vehicle specifications. This provision would enable the SoS to specify that evidence must be produced (and the nature of that evidence) to prove that the vehicle meets the minimum test standards. This would also satisfy European requirements regarding minimum test vehicle specifications.

Until regulations are made under these proposed powers there will be no impact. Furthermore, any regulations produced would be subject to public consultation and the production of an RIA before their introduction.

(xvii) A new regulation-making power to create exemptions from the ambit of Part V RTA 1988

Those instructors involved with delivering paid instruction to motor car drivers must be registered or licensed persons - this is stipulated in s123 of the RTA. The only exemptions to this are contained in s124 of the RTA and apply to police instructors.

This amendment removes the provision whereby the police are exempted from the requirements of s123(1) and (2) and substitutes a much more flexible provision. The SoS may, by regulation, grant exemptions to all members of a prescribed class (or sub-set of a class) or only to members when carrying out specified activities. This will enable the SoS to regulate the activities of driving instructors authorised to provide "emergency response" (i.e. blue light) driving e.g. ambulance drivers, whose driving has come under increasing public scrutiny.

Removal of the police exemption under s124 will not take effect until a replacement provision has been created by regulation. The amendment also enables the SoS to prescribe, by regulation, the conditions attached to exemptions.

Currently the Crown is exempt from Part V RTA. The amendment allows the SoS to apply, by regulation, Part V RTA (in whole or part) to the Crown with appropriate transitional, incidental and consequential provisions.

Until regulations are made under these proposed powers there will be no impact. Furthermore, any regulations produced would be subject to public consultation and the production of an RIA before their introduction.

(xviii) A new duty to consult before making regulations

This amendment imposes a requirement on the SoS to consult with representative organisations in respect of regulations made under Part V RTA (regulation of driving Instructors).

Unlike other parts of RTA, Part V is currently exempt from a general requirement to consult in respect of changes. This amendment removes that anomaly.

DSA is committed to stakeholder consultation and routinely consults on proposals within the ambit of Part V. We do not therefore consider that there will be any additional public sector costs in implementing this amendment. A public services threshold test has been carried out and this has indicated that there is no need for a RIA to be produced. This provision will not therefore be subject to any further examination.

(xix) Allow more flexibility to driving schools to book and cancel test appointments

Currently, DSA must be given ten clear working days notice of the cancellation of a practical driving test and 3 clear working days notice of the cancellation of a theory test to avoid loss of the fee paid. This amendment allows the SoS, by regulation, to provide for more flexible arrangements for driving schools and candidates to book, cancel and re-arrange test appointments.

To facilitate the modernisation of test booking and re-arranging procedures, the SoS will require greater ability to make refunds and vary charges. This provision meets that need and improves customer experience of the process.

Until regulations are made under these proposed powers there will be no impact. Furthermore, any regulations produced would be subject to public consultation and the production of an RIA before their introduction.

(xx) Power to impose conditions when granting full licences

This amendment allows the SoS, by regulation, to impose conditions when granting full licences.

Currently, the SoS is able to impose conditions on provisional driving licences by virtue of s97 (1A) (3) RTA. There is no corresponding provision in respect of full licences. The amendment will address that deficiency. The intention is to impose conditions on both provisional and full licences requiring their surrender to an examiner on successfully passing a driving test. This will facilitate the introduction of the Automated Driver Licence Issue (ADLI) system.

Under ADLI, successful driving test candidates give their existing driving licence to the driving examiner for destruction and the Driver and Vehicle Licensing Agency (DVLA) issues a full driving licence for the new entitlement without the candidate having to submit an application. As most candidates apply for a full licence shortly after passing the test, they will not be inconvenienced.

The new powers will provide greater flexibility to grant licences in some circumstances where they are currently refused. For example where the applicant suffers from night blindness a licence could be granted with the condition that it was only valid during daylight hours. Such licence restrictions would enable sufferers to have at least limited access to a driving licence as they would not present a road safety risk during daylight hours. This would mirror practice in several other countries. Indeed, the EU Commission is exploring the subject of restricted licences with Member States in the Medical Working Groups.

Until regulations are made under these proposed powers there will be no impact. Furthermore, any regulations produced would be subject to public consultation and the production of an RIA before their introduction.

(xxi) Penalties for mis-use of compulsory training logbooks and other certificates

Currently training logbooks are used voluntarily by some learner car drivers and are proving to be a cost effective method of monitoring progress. Consequently, DSA will seek to extend their use to compulsory training courses introduced by regulations made under existing powers. Such logbooks would form a record of the training undertaken and would require the signature of both the trainee and the instructor along side each entry.

DSA will also seek to make the training as relevant as possible to the needs of individual trainees by providing exemptions where evidence is provided that elements of the training are not required. For

example, where a competence required to be demonstrated as part of a lorry driving course has already been displayed as part of a bus/ coach driving course.

This amendment creates an offence where evidence of the completion of a compulsory driving course or entitlement to exemptions is found to be fraudulent. These provisions would have direct effect, but only impact on those involved in fraud.

Where evidence of fraudulent use of training logbooks was discovered prior to granting the appropriate training completion certificate, the certificate would not be issued. The likelihood is that DSA would only take further action if there was evidence of widespread or major fraud or collusion by an approved training provider. DSA has no evidence to suggest that this is likely to occur.

Where evidence of fraudulent use of training logbooks was discovered after granting the appropriate training completion certificate, DSA would inform the driver concerned that the conditions attaching to the issue of a licence had not been met and would take steps to negate the relevant driving test (if this had already been taken). Where DVLA had already issued a new licence prior to being notified of the fraud, DSA would inform them of the negation of the test and request DVLA to revoke any driving licence issued in respect of that test. The likelihood is that DSA would only take further action if there was evidence of widespread or major fraud or collusion by an approved training provider. DSA has no evidence to suggest that this is likely to occur. Therefore, it is believed that this proposal does not have any significant public sector costs.

This provision will not be subject to any further examination, since there are no perceived impacts on business, charities or the voluntary sector. Furthermore a public services threshold test has also been carried out and this indicated that there is no need for a RIA to be produced.

Contact:

Rick Annable
Policy Unit
Driving Standards Agency
Tel: 0115 901 5914
Email: rick.annable@dsa.gsi.gov.uk

Section 3 - Fatigue

Section 3 - Summary of Contents

Proposal & (Extent)	Those affected	RIA or Statement
Motorway Rest Areas (England & Wales)	Highways Agency, MSA operators, Road users	RIA provided
Drivers' Hours (GB only)	VOSA, Commercial vehicle operators, drivers who break the drivers' hours regulations	RIA provided

Motorway Rest Areas

Purpose and intended effect of measure

Objective

To promote road safety by offering a genuine alternative to the conventional motorway service area (MSA) and thereby encourage drivers to "take a break" when they need to do so.

The proposal will affect road users and, potentially, operators of MSAs.

The proposal applies to England and Wales only.

Background

Following regular correspondence from the public requesting more informal rest areas on motorways, and discussions to consider ways of addressing driver tiredness, Government intends to provide a pilot rest area directly accessed from the motorway network.

Risk assessment

Fatigue is thought to be a factor in up to 20 per cent of accidents on motorway standard roads. Correspondence suggests motorists delay taking a break when tired because of a reluctance to stop at conventional MSAs. By providing a genuine alternative, motorists should be encouraged to stop and rest when they need to do so. This should ultimately contribute to a reduction in fatigue related accidents, although it will not be possible to quantify this until the pilot scheme has been evaluated.

Options

Option 1: Do nothing - the current situation will remain unchanged and concerns around driver tiredness (and therefore fatigue related accidents) are unresolved.

Option 2: Sign nearby off-motorway picnic sites from the motorway network - no suitable sites could be identified. Additionally, there is some anecdotal evidence which suggests a reluctance by drivers to deviate too far from the course of their journey in order to take a break, and MSAs which are situated at motorway junctions have lower turn-in rates than those directly accessed from the motorway; it seems probable that this would be repeated at picnic areas. As with existing trunk road picnic areas, care would need to be taken to ensure facilities are only used for the purpose for which they are intended.

Option 3: Provide a motorway rest area directly accessed from the motorway network. This option provides a real alternative to the conventional MSA, and because it would be directly accessed from

the motorway, should prevent the most attractive proposition to motorists. As with existing trunk road picnic areas, care would need to be taken to ensure facilities are only used for the purpose for which they are intended.

Costs & Benefits

Option 1: No change.

Option 2:

Economic & Social

Difficult to quantify how many motorists might use such a facility, and therefore the ultimate impact on road safety as no suitable sites have been located. Likely that take-up would be considerably lower than for an on-line facility.

Economic costs arise mainly from the need to upgrade any existing sites to an appropriate standard (as no suitable sites could be identified) and to provide appropriate signing. Costs would vary on a site by site basis and therefore it is not possible to give estimates.

No discernable social costs have been identified.

Environmental

This option creates potential environmental costs in two respects:

- By diverting motorists from the course of their journey to get to the off-motorway picnic sites, and thereby extending the journey length
- The increase in signing which would be required may have a detrimental impact on visual amenity

Option 3:

Economic

Initial estimates suggest that to provide a pilot picnic area site will cost in the region of £3,000,000 with annual running costs of around £300,000 (which includes regular cleaning of toilets, litter clearance and landscape maintenance, and a regular presence on site to discourage misuse of facilities). As the proposal intentionally offers no commercial opportunities (to prevent it from becoming a mini-MSA) it will have to be publicly funded). There are no costs to business.

Social

More motorists taking rest breaks appropriately, ultimately reducing the number of fatigue related accidents.

Environmental

There will inevitably be some environmental costs, although the intention is to design the site to minimise these as far as possible, and provide screening to minimise the visual impact on the landscape.

Further assessment of the potential environmental impact will take place once a suitable site has been identified. The intention is that any negative impact should be minimised as far as possible.

Equity and Fairness

Neutral effect

Consultation with small business: the Small Firms' Impact Test

Not applicable.

Competition Assessment

It is considered that only a simple assessment is required. Only the MSA Operators are likely to be affected by this proposal, which will not include any commercial activity. There are 65 MSA sites in England, of these 60 are run by the three main operators (Moto - 24, Roadchef - 15, Welcome Break - 21). The proposal is intended to introduce competition by providing a genuine alternative to conventional MSAs, although, operators appear unconcerned by the proposals due to the lack of commercial activity on the rest area.

Enforcement and Sanctions

Not applicable.

Monitoring and Review

A full evaluation process is to be prepared to assess the effectiveness of the pilot scheme, primarily in terms of levels of usage of the rest area, over the first year of its operation. Once the pilot has been fully evaluated, consideration will be given as to if and how further provision should be made.

Evaluation Criteria

1. Level of usage
2. Accident levels:
 - Impact on fatigue related accidents in the area
 - Whether associated traffic movements have led to accidents
3. Problems associated with the site:
 - litter
 - anti-social behaviour
4. Level of running costs associated with the site and any other costs incurred

Consultation

Within government

Views on the proposal sought from the Department for Transport and the Department for Environment Food and Rural Affairs.

Public Consultation

Initial discussions have been held with the existing MSA operators, and the local planning authorities likely to be affected by the potential pilot site.

Summary and Recommendation

Option	Total cost per annum (Economic, environmental, social)	Total benefit per annum (Economic, environmental, social)
Do nothing		

Road Safety Bill Regulatory Impact Assessment (RIA)

Sign off-motorway picnic sites	Difficult to quantify since no suitable sites could be identified	Difficult to quantify but usage likely to be lower than for Option 3 - suggesting a reduced impact on fatigue related accidents
Provide a rest area directly accessed from the motorway network	Estimated cost of implementation: £3,000,000 Running costs: £300,000 pa	More motorists taking rest breaks, ultimately reducing the number of fatigue related accidents

Given that the intention is to do more to encourage drivers to take a break when they need to do so, Option 3 (provide a rest area directly accessed from the motorway network) is recommended. Whilst Option 2 would incur considerable lower capital costs, it is considered that this would have a much reduced impact.

Contact point:

Martin Seldon
Land Use Strategy
NS Central
Highways Agency
Broadway
Birmingham
B15 1BL
Tel: 0121 687 2585
GTN: 6189 2585
Email: martin.seldon@highways.gsi.gov.uk

Drivers' Hours - Amendments to Section 99 of the Transport Act 1968

Purpose and intended effect of measure

The Objective

To provide for the effective enforcement of existing EU drivers' hours rules. Specifically:

- To adjust existing national legislation in order better to achieve its intended effect
- To ensure procedures are in place so that the drivers' hours rules can continue to be enforced following the introduction of the digital tachograph.

The proposals do not introduce any new regulation, and the effect on law-abiding drivers and operators will be negligible. Indeed they should benefit competitively from better enforcement against law-breakers.

Background

The EU drivers' hours rules apply to most heavy goods vehicle drivers and about half the bus and coach drivers operating in the UK. They place limits on continuous and daily driving time and require drivers to take minimum breaks and rest periods.

The Government is under a legal obligation to enforce the EU drivers' hours rules effectively.

Tachographs create a record of drivers' activities. These records are used to enforce the drivers' hours rules. Section 99 of the Transport Act 1968 gives enforcement officers the power to inspect tachograph records and other relevant documents to establish whether the EU drivers' hours rules have been broken. The Government wishes to amend section 99 to give enforcers additional powers,

remove ambiguities and to increase the maximum penalty for failing to produce records or for obstructing an officer. It is also necessary to amend the Transport Act 1968 due to the introduction of digital tachographs.

Risk Assessment

The risk addressed by the proposals is inadequate enforcement of drivers' hours rules.

There is established evidence to demonstrate that fatigue leads to a higher incidence of traffic accidents and that the consequences of large vehicles being involved in accidents are more serious than for small vehicles.

In 2003, random checks of heavy goods vehicles revealed that just over 8% of randomly chosen drivers had committed drivers' hours offences and just under 8% were involved in tachograph related offences. These percentages can be expected to increase if our legislation is not amended to ensure that we can continue to enforce the rules following the introduction of digital tachographs. If the UK cannot enforce the EU drivers' hours rules effectively, it will lead to an increased risk of drivers of large commercial vehicles breaking the rules and therefore being involved in fatigue-related accidents. It is not possible to quantify the effect on the accident rate of either the shortcomings we have identified or our proposed solutions. The primary motivation for the measures proposed is to ensure we have a coherent and credible enforcement framework to deliver our obligations under EU law.

Options, Benefits and Costs

As noted above, our proposals do not introduce any new regulation. They relate to the implementation of existing rules, either EU or national.

For reference the proposals are summarised below.

A. (Signed Printouts) - Asking drivers to sign a print-out from their digital tachograph to confirm the accuracy of the information shown would give drivers one last opportunity to correct any mistakes or oversights. It would also make it easier for enforcers to prosecute successfully drivers who knowingly and deliberately falsify records.

B. (Power to Direct to Inspection Site) - This would help enforcers to detect - and punish - persons who interfere with the functioning of their tachograph in order to conceal drivers' hours offences. This behaviour is associated with persons who wilfully disregard the drivers' hours rules and - by failing to take adequate rest - endanger other road users. They also gain an unfair competitive advantage over their honest rivals. This power would be subject to compensation arrangements if no offence is found, see below.

C. (Increased maximum fine) - The existing penalty for failing to provide tachograph records, or obstructing an officer, is lower than the penalty for breaking the drivers hours rules. Therefore, offenders will generally face a lower penalty if they withhold records, or obstruct an officer, than if they co-operate. In 2003/04, VOSA recorded nearly 2,000 offences involving withholding records or obstructing an officer. These offences represented approximately one fifth of all the drivers' hours and tachograph offences. A level 5 fine would provide a real incentive to comply with the law.

D. (Offence of permitting falsification of tachograph records) - This would help deliver the intention of existing national law by providing a more effective way to deal with operators who encourage, persuade, or in some cases force, drivers to falsify tachograph records to conceal drivers' hours offences. It is difficult to prove that an operator has committed the existing (more serious) offence of causing false records to be made, which can lead to a prison sentence. The lesser offence of permitting falsification (which would attract a financial penalty only) would cover those operators who connive in the falsification of records, but where there is no evidence that they were the actual *cause* of the falsification.

E. (Other minor changes) - We need to make a number of minor, technical changes to the 1968 Act in order to apply the existing penalties and enforcement powers to digital tachographs (as we are required to do by EU law). We also intend to clarify enforcers powers to take records away from companies for the purposes of inspection and introduce a new limit on the length of time for which records can be held if not needed as evidence (6 months). The power to ask for records to be sent to the office of the Traffic Commissioner (which dates back to a time when enforcers operated from the premises of the traffic commissioner) will be updated to allow enforcers to ask records to be sent to any specified address.

Options

For each of the proposals listed above the alternative option is "do nothing".

Benefits

For each proposal, the benefit is its contribution to an enforcement framework that is effective, proportionate and dissuasive. In 2003, random checks of heavy goods vehicles revealed that just over 8% of randomly chosen drivers had committed drivers' hours offences and just under 8% were involved in tachograph related offences. Levels of non-compliance can be expected to increase if our legislation is not amended to reflect the introduction of digital tachographs. Law-abiding companies suffer unfair competition from operators that disregard drivers' hours rules. Our proposals will address areas of the enforcement framework that provide opportunities to break the rules.

We have no evidence to indicate the effectiveness of our proposals (and would be unable to gain such evidence without trialling "with" and "without" arrangements in parallel). But our proposals have been developed in close consultation with enforcement agencies who are well acquainted with the behaviour of commercial operators.

Economic benefits

Law-abiding companies will gain economic benefits from an effective enforcement framework; operators that do disregard the drivers' hours rules gain an unfair competitive advantage.

Preventing road accidents also has wider economic benefits. Road accidents can result in economic costs such as loss of output and loss of earnings for the individuals involved. An effective enforcement framework helps to reduce such losses.

Environmental Benefits

N/A

Social Benefits

An effective regime for enforcing the drivers hours rules helps to prevent road accidents, which has obvious social benefits.

Costs

Economic Costs

These can be broken down as follows:

Costs to business

There will be no additional costs for law-abiding operators and drivers. In theory there is a possibility that a lorry may be delayed while a detailed mechanical inspection is made under proposal B. But in practice enforcement agencies will pursue this course of action only where they have grounds (eg the lorry was seen travelling but the tachograph record showed it was stationary). Moreover, operators will be entitled to claim compensation if their vehicle is diverted by more than 5 miles and no breach of the tachograph rules is discovered.

Our proposals have general support from the industry (specific concerns raised are outlined below). Companies which break the rules gain an unfair competitive advantage. Fair and effective enforcement is, therefore, in the best interests of the industry as a whole.

Costs to enforcement agencies

None of the proposals would increase costs to the enforcement agencies. Their resources are finite and our proposals would allow them to use the funds that they have more effectively by improving the deterrent effect of the enforcement regime.

Costs to the Court system

Our assessment is that the proposals would not lead to an increase in Court activity. The capacity of enforcement agencies to pursue prosecution is limited by their finite resources. It is our assessment that the offence of permitting tachograph records to be falsified could reduce court activity as it would enable enforcement agencies to pursue one company rather than several drivers.

Environmental and Social costs

None

In *summary* our assessment is that:

- The costs of all our proposals will be nil, and might entail cost savings
- The benefits, while unquantifiable, will be positive in terms of road safety and benefits of less unfair competition for law-abiding companies.

Consultation with small firms: the Small Firms' Impact Test

The Small Business Unit did not consider that our proposals would have a significant or disproportionate effect on small businesses. We did not receive any responses to the consultation paper from any companies specifically identifying themselves as small firms. However, the proposals have broad support from the industry (including the main Associations whose membership includes small firms). In response to requests from the industry, we have agreed to include a right to compensation where vehicles are diverted by more than 5 miles for a check and no breach of the tachograph rules is found. For further information on consultation paper responses, see the main section on consultation below.

Competition Assessment

As noted above, without these provisions, disreputable companies would find it easier to break the drivers' hours rules and, through their willingness to make their drivers work excessive hours, gain an unfair competitive advantage.

Enforcement and Sanctions

Not applicable. The proposals relate directly to enforcement and sanctions, rather than being new regulations that need to be enforced.

Monitoring and Review

The Department maintains close contacts with enforcement agencies who keep us informed of the effectiveness of our enforcement regime. Indeed the proposals described here have been requested by enforcement agencies to address real or predicted problems with the current regime.

We will maintain a close watch on the new regime, especially after the introduction of digital tachographs, to assess its effectiveness.

Consultation

Within Government

We have consulted the devolved administrations.

Public Consultation

A consultation paper was issued on 22 July. We received twenty responses to our proposals for amending section 99. The majority supported our proposals. Indeed, those objections that were received related to individual powers rather than to the section 99 proposals as a whole.

Four respondents expressed concerns relating to the power to direct vehicles in order to check for devices used to interfere with tachographs. Of these, two asked for a right to compensation to apply if a vehicle was diverted for a detailed check but nothing was found to be wrong (we have agreed to introduce such a right). Four respondents supported a level 4 fine for failing to produce records or obstructing an officer rather than a level 5 fine. Inspection of tachograph record sheets can reveal that a number of offences can be attributed to the operator of the vehicle. Whereas, non-production of record sheets will very often only result in one offence. The result is that, for non-production of records, an offender is currently given a lesser penalty (level 3) than if he produced records which showed drivers hours offences and he is also punished for fewer offences. We believe that a maximum level 5 fine is necessary to provide a real incentive to comply with the law.

The Confederation of Passenger Transport (CPT) and the Freight Trade Association (FTA) asked for enforcers to be required to return records after three months, rather than six, if they are not required as evidence. We would not favour this approach. Enforcement agencies are required on occasions to carryout large scale investigations - notably after serious road traffic accidents. In addition, where intelligence information has been supplied that a particular operator, and their drivers, have conspired together to defeat the driver's hours and tachograph rules, it is necessary to inspect large numbers of tachograph record sheets to prove the case. That said, it is normal practice for enforcement agencies to return record sheets that are not required for evidential purposes within the three months.

Summary and Recommendation

The Government recommends the introduction of these measures in order to maintain an effective, proportionate and dissuasive enforcement regime for drivers' hours rules. We have identified no additional costs either for law-abiding companies or for Government, nor have we identified any disbenefits. On the contrary our assessment is that benefits are likely to be positive for both public safety and for business.

Contact Point

Michelle Rawlings
Logistics Policy
Department for Transport
2/21 Great Minster House
76 Marsham Street
London
SW1P 4DR
Tel: 020 7944 8391
Email: michelle.rawlings@dft.gsi.gov.uk

Section 4 - Support for the enforcement of traffic and roadworthiness regulations

Section 4 - Summary of Contents

Proposal & (Extent)	Those affected	RIA or statement
Fixed penalties for drivers with no current GB licence (GB only)	Police, DVLA, Courts, drivers who break road traffic law and do not have a valid GB licence	Statement only - the proposal will have no impact on business etc.
Abolition of the counterpart to the driving licence (GB only)	DVLA, Police, Courts	Statement only - the proposal will have no impact on business etc.
Graduated Fixed Penalty/Deposit Scheme (GB only)	VOSA, Courts, Police, drivers who break commercial vehicle operating rules.	RIA provided.

Fixed penalties for drivers with no current GB licence

As the law currently stands it is only possible to issue an endorsable fixed penalty notice to someone who holds a valid GB driving licence and counterpart. European Community licence holder who are resident in Great Britain can apply for a counterpart, which would allow them to take advantage of the fixed penalty system. However, Community Licence holders who have not obtained a counterpart have to be prosecuted in Court, which exposes them to the risk of a higher fine and imposition of Court costs. Complaints about this have been upheld by the European Commission and we are therefore obliged to change the GB fixed penalty system so that any discrimination is removed.

This proposal therefore seeks to remove the current requirement for the Police to inspect the driving licence counterpart before issuing a fixed penalty notice. Instead, they would be able to interrogate records held by DVLA in order to satisfy themselves about the driver's penalty points status. This amendment would also allow fixed penalties to be issued to drivers who do not hold a valid licence, where the police feel that this is the appropriate course of action.

This provision will not be subject to further examination as it deals with the enforcement of existing road traffic law and improving the efficiency of its prosecution. There will be no costs to business, charities or the voluntary sector. A public services threshold test has also been carried out and this supports the view that there is no need for a RIA to be produced. The only people affected will be those engaged in illegal activity. The ability to issue fixed penalties to drivers with no GB licence should also have savings for the Courts.

Contact

Simon Cousins
 Licensing, Roadworthiness & Insurance Division
 Department for Transport
 Tel: 020 7944 2204
 Email: simon.cousins@dft.gsi.gov.uk

Abolition of the counterpart to the driving licence

Amending the fixed penalty provisions as detailed above would deprive the counterpart to the driving licence of its only statutory function. Whilst it would still have other non-statutory functions (such as providing details of entitlement, information on the driver's licensing history and a means to notify DVLA of changes of address), in due course these could all be provided by alternative procedures, for example via telephone or electronic links. We are therefore proposing to remove references to the counterpart in legislation once these alternative procedures have been put in place and have proved to be practical. This will effectively abolish the counterpart.

DVLA have recently consulted on the future of the counterpart¹⁹, and support for its abolition ran at around 80%. Comments from the police and courts suggest that it is being used less to fulfil its original purpose and there is already far greater reliance placed on information obtained via electronic and telephone links, which are more accurate.

Until the counterpart is removed from legislation there will be no impact. The only organisations that we expect to be affected by the abolition of the counterpart would be the DVLA, Police and Courts; there would be no impact on business, charities or the voluntary sector. Indeed, it is possible that the introduction of electronic links could have cost savings for the Courts. DVLA will produce a full Regulatory Impact Assessment when they are in position to consider the costs and benefits of all the systems that could replace the counterpart's current functions.

Contact

Simon Cousins
Licensing, Roadworthiness & Insurance Division
Department for Transport
Tel: 020 7944 2204
Email: simon.cousins@dft.gsi.gov.uk

Graduated fixed penalty/deposit scheme

Purpose and Intended Effect of Measure

Objective

The objective of these proposals is to improve compliance with road safety related regulations by making enforcement arrangements and sanctions more consistent, transparent, proportionate and efficient.

The proposals do not introduce any new regulation, and the effect on law-abiding drivers and operators will be negligible. Indeed they should benefit from better enforcement against law-breakers, and even offending drivers will have the option to avoid the bureaucracy of Court proceedings in many cases, with all the lost time that entails.

The proposals are in the form of enabling measures only. The detail needed to implement the scheme contained in our recommended option would be brought in by subsequent Regulations following further public consultation.

Background

The Government proposes to rationalise the system of penalties by introducing a graduated fixed penalty scheme for commercial vehicles. This will be accompanied by a deposit scheme for non-UK resident offenders to ensure they do not escape any penalties they incur.

¹⁹ Consultation on the future of the Counterpart to the Photocard Driving Licence, DVLA, February 2004.

The Government's proposals arise from a concern that our framework of penalties does not represent a sufficient deterrent to infringements by commercial vehicles and their drivers/operators. This concern has grown from the fact that it can take up to six months from the point where an offence occurred to the actual Court hearing by which time offenders may have committed more offences. The consequence is that levels of offending remain static year on year.

Many of these offences also have road safety consequences. The system is slow and dependent on use of the courts, penalties applied by the courts can vary across the country for the same offence, and foreign drivers can often escape penalties altogether.

The Government's proposals aim to tackle this problem by:

- a new scheme of graduated fixed penalties for offences relating to operating rules for commercial vehicles
- a deposit scheme, similar to arrangements in many EU countries, to ensure non-UK resident drivers, or those who cannot prove a UK address, do not escape penalties. The scheme would apply to commercial vehicles in the first instance
- arrangements to allow both the Police and Vehicle Operator and Services Agency (VOSA) to operate these schemes at the roadside for roadworthiness and infringements such as overloading and exceeding drivers' hours rules

The Government believes that these proposals would address the concern highlighted in paragraph 5 by illustrating to the driver at the time of the offence how seriously the offence that he is accused of is regarded and the financial impact if he should contemplate committing further offences in future.

Furthermore, other Member States that have fixed penalty systems, where the fines are graduated according to the severity of the offence, have shown that they are more effective than Court based systems. This is evidenced by the fact that only 3 Member States, including the UK, of the pre-May 2004 Membership do not have a similar system in place. In the European Commission's Transport White Paper "2010 a Time to Decide" (Com[2001] 370 Final), they set out clearly that Member States throughout the EU need to harmonise penalties and penalty systems. The system that we propose here would bring the UK in line the majority of other EU Member States.

Fixed penalties applied by VOSA would relate, principally, to infringements in the following categories:

- overloading
- drivers' hours, tachograph records
- roadworthiness
- construction & use
- driver licence
- plating & testing
- vehicle excise duty
- emissions
- community authorisations and licences

VOSA will not be empowered to issue fixed penalty notices for moving traffic offences, such as speeding.

Risk assessment

The Government's proposals address the risk that road safety is endangered, and unfair competition encouraged, by current enforcement arrangements.

In a typical year, VOSA inspect around 100,000 lorries and 20,000 buses/coaches at the roadside or operators premises and, on average 15-25% will be found to have committed a prohibitable offence. On average, VOSA report around 8-11,000 cases for prosecution. These figures have remained fairly constant over the years although variables such as improved vehicle safety and better targeting of likely offenders has a bearing.

For the year 1st April 2003 - 31st March 2004, VOSA initiated prosecutions on 7,835 cases, containing 18,279 offences. Of these, just 7 cases with 10 offences involved foreign drivers.

Foreign drivers are at least as likely to offend as their UK counterparts. This is corroborated by VOSA statistics which show that drivers' hours offences are detected in 3.7% of the UK drivers they check yet this rises to 12.8% for overseas drivers. However, in all but very rare cases where overseas drivers provide a UK agent for the service of a summons, they cannot, in effect be prosecuted. The Criminal Justice (International Co-operation) Act 1990 makes it clear that failure to comply with a warrant served at an overseas address does not constitute contempt of any court or be a ground for issuing a warrant to secure the attendance of the person in question. The probable main factor behind the comparative high figure of offending for non-UK drivers is that they are aware that they are unlikely to face any other penalty other than prohibition action.

Options

The Government has considered a range of options to address the problems identified above. But initial consultation with the commercial vehicle industry and the Police has identified Option 3 as the most effective way of achieving the objective.

- Option 1: Do nothing. The current situation will remain unchanged and the anomalies within the enforcement system will be unresolved.
- Option 2: Amend the Road Traffic Offenders Act 1988 to allow VOSA to issue fixed penalty notices. Although this option will increase VOSA's enforcement capabilities, the measures would be unable to be applied to the non-UK offenders which could therefore increase the disparity of treatment and penalties between UK and non-UK resident offenders.
- Option 3: This option would fall essentially into 3 parts; It would (i) create a deposit scheme requiring immediate payment at the roadside for offenders unable to prove UK residency; (ii) enable examiners from the VOSA to impose penalties on commercial vehicles; and (iii) introduce a system of graduated fixed penalties to more appropriately reflect the number and severity of offences.

The Government recognises that there are risks associated with its preferred option, notably:

- collection of money at the roadside from non-UK resident offenders and the risk of corruption/bribery/theft
- verifying UK residency
- dealing with refusal, or inability, to pay.

The Government is confident these risks can be addressed and further work on these will form part of the full Regulatory Impact Assessment to be produced when we consult on the detailed scheme.

Benefits

Economic

Road Safety Bill Regulatory Impact Assessment (RIA)

Our initial assessment is that the scheme will reduce the burden on the courts. Indeed this is one of the key benefits of the scheme. Those who accept a fixed penalty will not have to go through Court procedures. We anticipate that 80% of current prosecutions undertaken by VOSA will be replaced by Fixed Penalties (last year this was 7800 cases). However, administering the collection of fixed penalties/deposits and enforcing the fines against those drivers who fail to pay a fixed penalty might prove greater than the savings in existing Court and legal aid costs. Should that prove to be the case, and if HM Treasury will not allow such costs to be covered from fines collected, the Department for Transport will be required to fund any additional overheads to the Courts. The Department for Transport is developing more detailed figures to underpin this assessment.

The costs of increased compliance will be assessed when the RIA for the detailed scheme is prepared.

Environmental

It is considered that benefits would be gained here as a consequence of an additional level of sanction aimed at environmental related offences, such as exhaust emissions.

Social

The proposals do not introduce any new regulation. Rather they are intended to make enforcement of the existing regulations more equitable, efficient and effective. Those who comply with the law should benefit from a more effective deterrent against unfair competition from law-breakers.

In addition, the new scheme would not affect the ability of VOSA staff to fulfil their current duties. On the contrary, it would release the time they currently spend preparing prosecution cases allowing for more in-depth investigative type work.

There would also be increased safety benefits. The Department has not yet attempted to quantify safety and competition benefits, but paragraphs 5 and 6 above give a sense of the scale of the problem. If further development of the scheme bears out our assessment that the scheme has no net costs for those who abide by the law and for Government, then any benefit will give the proposals a positive cost: benefit ratio.

Costs

Economic

The cost of a graduated fixed penalty or deposit will be dependent on the severity and number of offences committed by the driver. There will be no associated costs for non-compliance for such drivers beyond the penalty, unless they decide to dispute the offence through the Courts, in which case normal costs of the legal process will apply.

An individual who has paid a deposit but is held to be not guilty in court (on appeal) may incur administrative and bank costs prior to the recovery of their deposit. It is expected that associated costs in these instances will be minimal.

We estimate that the start up cost of the Graduated Fixed Penalty and Deposit Scheme will be £2,170,454. Once it is up and running, the administration costs are estimated at £800k per annum. The Government is considering options for covering these costs, e.g. through hypothecation of fines.

Environmental

We do not envisage any associated environmental costs.

Social

There will be no additional social costs or administrative burden for those who comply with the law. Indeed these people should benefit from a more effective deterrent against unfair competition from law-breakers.

Equity and Fairness

Option 3 would provide the fairest system in respect of treatment between UK and non-UK resident offenders. Option 2, although giving VOSA wider enforcement powers as far as domestic vehicles are concerned, could widen the disparity of treatment between UK and non-UK offenders.

In option 3, a statutory appeals process would be built into the scheme to ensure a right of appeal.

Consultation with small business: the Small Firms' Impact Test

Compliant small companies will be unaffected by the proposals. Indeed they should benefit. The Small Business Service (SBS) has been consulted and they do not consider the proposals would have a significant or disproportionate impact on small businesses.

Although none of the respondents to the consultation exercise indicated if they were small businesses, the general response of the main commercial vehicle Trade Associations, whose membership consists of companies of all sizes, was supportive of the proposals and the impact it would have on its members.

Competition Assessment

As already noted, option 3 would address the concern that unfair competitive advantages are being gained by overseas hauliers as a result of more lenient enforcement treatment in comparison to their UK counterparts.

The competition assessment filter test has been carried out and it is not envisaged that the scheme would have any adverse impact on competition. On the contrary, the scheme should create more of a level playing field in competition terms with the application of more consistent and equal enforcement penalties, irrespective of the driver's nationality or residency status. The Department will attempt to quantify the competition benefits in the RIA on the scheme's implementing detail.

Enforcement and Sanctions

The scheme seeks only to enable new sanctions to deal with existing offences. No new offences are involved.

VOSA and the police would enforce the new measures. Exactly how this will be done will be subject to more detailed consultation and a further RIA in due course.

Non-payment of the fixed penalty notices, would result in the case being registered with the courts for the offence of non-compliance (i.e non-payment).

Monitoring and Review

There will be a full post implementation review to assist in the implementation of all categories of vehicles once the secondary legislation has been commenced.

Consultation

Within Government

Clearance to the scheme has been given by key other Government Departments who have a direct policy interest - the Home Office, DCA [and the Treasury in principle].

Public Consultation

Prior to public consultation, initial discussions were held with the road haulage and passenger carrying industries who were supportive of the scheme, as were the police.

A public consultation exercise on the principle of the proposals ran from 22 July to 14 October 2004.

Road Safety Bill Regulatory Impact Assessment (RIA)

A total of 36 responses were received to the consultation. Of these, 14 were from organisations involved in the haulage industry, including the Trade Associations, and 22 were from non-industry (such as the Police, pressure groups and other Government Departments). 32 were from organisations in Great Britain and 4 were from Northern Ireland.

Specifically, all 36 of the respondents supported the principle of introducing Graduated Fixed Penalties for commercial vehicles in the first instance. Five of the respondents believed that it should be applied to all categories of vehicles. The only concerns raised were on the detail of how the penalties would be applied in practice and on how the graduation of the fine would work. Some respondents stated that it was imperative the scheme was made sufficiently robust in order not to provide opportunities for drivers to challenge fixed penalty notices issued incorrectly.

Similarly, the proposal for introducing a Deposit scheme for commercial vehicles in the first instance was seen as a positive measure and was supported by all of the respondents. Again, the same five respondents, as mentioned above, believed that the deposit scheme should be applied to all categories of vehicles. General concerns raised were mainly related to the risks which had already been identified by the Department and which are outlined in paragraph 4.23. The risks associated with collecting fines at the roadside were a particular concern as was the potential for inconsistency of the scheme's application at the roadside by VOSA enforcement staff.

35 of the respondents supported the proposal of allowing VOSA examiners to issue fixed penalties notices. Although one Trade Association did express concern, they did not elaborate on their precise cause of concern. Nevertheless, the vast majority of the respondents thought that it was a sensible and practical measure which would streamline and facilitate the enforcement process.

In conclusion, the respondents supported the principal behind the proposals and the vast majority considered that a Graduated Fixed Penalty and Deposit Scheme would be a positive and effective means of eradicating those inconsistencies in commercial vehicle enforcement for which it sought to address.

Summary and Recommendation

Option	Total cost per annum (Economic, environmental, social)	Total benefit per annum (Economic, environmental, social)
1. Do nothing.	No change	No change
2. Amend the Road Traffic Offenders Act 1988 to allow VOSA to issue fixed penalty notices.	Negligible.	This option would give VOSA greater enforcement powers to deal with non-compliance (but only effective on UK offenders) and would thereby reduce the burden on the Courts as fewer of the regulatory offences would be prosecuted. It would also reduce the amount of time VOSA currently spend in processing routine casework for prosecution, thereby enabling them to spend more of their time at the roadside detecting non-compliance.

Road Safety Bill Regulatory Impact Assessment (RIA)

<p>3. (i) Create a deposit scheme requiring immediate payment at the roadside for offenders unable to prove UK residency;</p> <p>(ii) Enable examiners from the VOSA to impose penalties on commercial vehicles; and;</p> <p>(iii) Introduce a system of graduated fixed penalties to more appropriately reflect the number and severity of offences.</p>	<p>Negligible. Law-abiding operators will not be affected by the new arrangements</p>	<p>Same benefits as Option (2) above but, in addition, it would provide a fairer system by offering equal treatment to UK and non-UK resident offenders by ensuring that all pay a penalty which is commensurate to the severity of the offence.</p>
---	---	--

Option 3 would provide the fairest system in respect of treatment between UK and non-UK offenders. Option 2, although giving VOSA wider enforcement powers as far as domestic vehicles are concerned, could widen the disparity of treatment between UK and non-UK offenders.

The Government commends the scheme set out in option 3. It believes the benefits for road safety, and the benefits to law-abiding operators, justify the set-up and running costs of the scheme which will probably be met by those who do not obey the law. In addition there should be savings to Government on court costs.

Contact Point

Malcolm Blake-Lawson
 Logistics Policy
 Department for Transport
 2/21 Great Minster House
 76 Marsham Street
 London
 SW1P 4DR
 Tel: 020 7944 2254
 Fax: 020 7944 2928
 Email: malcolm.blake-lawson@dft.gsi.gov.uk

Section 5 - Support for enforcement of Insurance and Driver & Vehicle Licensing

Section 5 - Summary of contents

Proposal & (Extent)	Those affected	RIA or Statement
Disclosure of old insurance information (GB only)	Police, Courts, Motor insurance industry, motorists who drive without insurance	Statement only - proposal is for an enabling power. There is no impact at this stage.
Requirement to surrender a licence to DSA staff where fraud is suspected (GB only)	DSA, Police, those involved in identity fraud	Statement only - the proposal will have no impact on business etc.
Fee for the grant of an ordinary driving licence to an EC national following the loss of vocational entitlement (GB only)	DVLA, applicable EC nationals	Statement only - the proposal will have no impact on business etc.
Required Particulars for Vehicles Register (UK wide)	DVLA, vehicle keepers, fleet & leasing companies	RIA provided
Registration of Number Plate Suppliers (UK wide)	DVLA, plus the Scottish & Northern Irish number plate manufacturing & supply industry, motor trade and fleet operators.	RIA provided
International Exchange of Driver & Vehicle licensing data - EUCARIS Treaty (UK wide)	DVLA	RIA provided
Recall of old format Driving Licences (GB only)	DVLA, licence holders	RIA provided
Fee for the Renewal of Photocard Licences (GB only)	DVLA, photocard licence holders	RIA provided

Disclosure of old insurance information

In order to enable the police to target uninsured driving we are seeking a power enabling the police to use data derived from the Motor Insurance Database to create a subsequent database of "at risk" vehicles.

Uninsured driving is a significant problem. It is estimated that 1 in 20 of all motorists drive without insurance (est. total of 1m drivers)²⁰. This places an unfair burden on honest motorists through the premiums they pay. The damage uninsured drivers inflict in road traffic accidents results in claims against the Motor Insurers' Bureau in the region of £250m. There are also an unknown number of claims made on insurers where the innocent victim of an uninsured driver claims against their existing insurance policy. In addition uninsured drivers are more likely to be involved in road traffic accidents and more likely to be less compliant with other road traffic requirements etc.

In light of the impact of uninsured driving the Department has been working in partnership with the motor insurance industry to tackle the problem. The Police already have access to the Motor Insurance Database that gives details of all insured motorists. But for effective enforcement the Police need the power to establish a smaller database of vehicles that have previously held insurance but no longer do so, and which can be readily linked to the Automatic Number-Plate Recognition (ANPR) cameras. The powers proposed within the Road Safety Bill seek to achieve this.

However, until regulations are made under the proposed power, there will be no impact. We expect once this happens that there will be impacts for the police, the Courts Services, the motor insurance industry and most importantly those motorists who drive without insurance. The police should benefit from a reduction in the resources required to detect certain offences, through using modern database technology. The Courts may well initially have more work: they would be required to deal with those that are prosecuted in Court for uninsured driving. However, longer term it is possible that once established, such a database will have a deterrent effect, improving compliance and reducing the work for the Courts. The Motor Insurance Industry has agreed to establish the "at risk" database which they estimate will have negligible costs, particularly in relation to the savings they expect to achieve from reduced claims against the Motor Insurers' Bureau.

At present there is no need for further examination as the proposal only has negligible costs for business and no costs for charities or the voluntary sector. Furthermore a public services threshold test has been carried out and this has indicated that there is no need for a RIA to be produced.

Contact

Tom Roberts
Licensing, Roadworthiness & Insurance Division
Department for Transport
Tel: 020 7944 8871
Email: tom.roberts@dft.gsi.gov.uk

Requirement to surrender a licence to DSA staff where fraud is suspected

This amendment allows the SoS to make regulations which will place a requirement on the holder of a licence to present that licence when taking a theory or practical driving test. The holder may be required to surrender it to DSA examiners or theory test invigilators in specified circumstances for example where it is suspected of being a forgery.

At the present time DSA staff have no power to require the holder of a suspect licence to hand it over, they can only invite the holder to surrender it. When they refuse to comply, it results in fraudulent

²⁰ Uninsured Driving in the United Kingdom, a report to the Secretary of State for Transport by Professor David Greenaway, University of Nottingham, July 2004.

licences remaining in circulation which can then be used to perpetrate further identification fraud. Such fraud is not restricted to abuse of the driving test system. Possession of a driving licence allows the holder to gain access to a wide range of benefits and services to which they are not entitled and facilitates major identity fraud (e.g. money laundering).

There is no perceived impact on business, charities or the voluntary sector. Furthermore a public services threshold test has been carried out and this has indicated that there is no need for an RIA to be produced. This provision will not therefore be subject to any further examination. The only people being affected by this proposal are those involved in criminal activity.

Contact:

Rick Annable
Policy Unit
Driving Standards Agency
Tel: 0115 901 5914
Email: rick.annable@dsa.gsi.gov.uk

Fee for the grant of an ordinary driving licence to an EC national following the loss of vocational entitlement

Traffic Commissioners may have occasion, due to concerns over a driver's conduct, to consider a driver's continued fitness to hold their vocational entitlement and the Secretary of State may order the holder to be disqualified from driving larger vehicles. Under Section 118 (4) of the Road Traffic Act 1988 DVLA may charge a fee for the issue of an ordinary driving licence to GB licence holders. Under the same circumstances there is no power to charge a fee to the holder of an EC licence.

There are no immediate plans to introduce a fee for the grant of a licence in these circumstances but the Road Safety Bill provides us with an opportunity to take the power so that we would be able to introduce a fee at short notice if needs arise.

The number of drivers affected is low. A few thousand lose their vocational entitlement each year (of these a small number, approximately 40-50 will possess an EC licence).

Until regulations are made under these proposed powers there will be no impact. Furthermore any regulations produced would be subject to public consultation and the production of a Regulatory Impact Assessment before their introduction.

Contact point:

Malcolm Davie
Drivers Policy Group
Driver & Vehicle Licensing Agency
Swansea Vale 2
Llansamlet
Swansea
SA6 7JL
Tel: 01792 765227
Email: Malcolm.davie@dvla.gsi.gov.uk

Required Particulars for Vehicles Register

Purpose & intended effect of measure

The Objective

To combat fraudulent activity such as "clocking" i.e. the turning back of a vehicle's odometer to increase its sale value. This will be achieved by introducing primary legislation to make it obligatory for vehicle mileage to be supplied to the Driver Vehicle Licensing Agency (DVLA). DVLA will also

have the power to extract/verify particulars supplied to the Vehicle Operator & Services Agency (VOSA) during MoT and Goods Vehicle Testing.

The provisions sought will extend to the United Kingdom so as to be co-extensive with the provisions of the Vehicle Excise & Registration Act 1994.

Background

Following an initial consultation held by the Office of Fair Trading (OFT) in 1997, into the sale of second hand cars, it was identified that one of the main problems for purchasers of used vehicles, was the uncertainty surrounding the vehicle mileage figure. OFT and the Department of Fair Trading approached DVLA, to use its database to raise awareness of the problem.

In 1998, the Vehicle Crime Reduction Action Team (VCRAT) identified a package of initiatives aimed at combating vehicle crime and improving facilities offered to the general public, utilising DVLA's databases. Following further research into the collection of mileage information, the scheme, then a voluntary process, was included in the report, with the recommendation that it should become mandatory.

The voluntary mileage recording scheme introduced in 1992 is still in operation and enables keepers to declare the mileage of vehicles on forms used to notify changes (the vehicle registration document/certificate [V5/V5C], the Licence/SORN Reminder Form [V11] and the application for a registration certificate [V62]). Take-up of the voluntary scheme has risen to 20%, a figure that is doubled for those vehicles held in the motor trade. It is proposed that introducing the requirement to provide mileage detail will reduce clocking, which fraudulently increases the resale value of a vehicle, costing the trader/motorist an estimated £100m²¹ net per annum.

Research carried out by the Independent Mileage Verification Association (IMVA) indicates that 80% of clocked vehicles continue to be used on the roads and that trading standards officers have indicated that up to 50% of clocking is carried out by the public.

The information gathered under the mandatory system will be passed to data verification agencies and used to confirm the vehicle mileage to customers, before the vehicle is purchased. It is proposed that a fee be charged to these agencies, which will be used to fund the administrative processes related to the scheme, within DVLA.

The data verification companies utilised will be those private organisations already in existence. New businesses joining the industry would face no restrictions to being included in the scheme under the same terms. Companies concerned will be given the choice of acquiring the mileage data, which will involve the payment of a fee to DVLA. This information will be passed to the customer, also for a fee, which will be structured depending upon the individual company. The anticipated level will cover the amount charged by DVLA and the internal company cost of processing the transaction.

It is not proposed to make the installation of a vehicle odometer mandatory. Data will only be required from those vehicles that are manufactured with an installed odometer.

Risk Assessment

Clocking is an ongoing problem that requires a considerable amount of resource investment by the Trading Standards profession. In addition to the net financial cost each year, clocking also potentially reduces the safety of the vehicle. A false indication of the mileage of the vehicle disguises the amount of use that the vehicle has experienced. Whilst this provides a more attractive option for individuals to purchase, the impact on the environment and road safety is threatened by the inaccuracy of data. For

²¹ Figure provided by the Automobile Association (AA) based on consumers/traders purchasing clocked vehicles for inflated prices, that do not reflect the actual, much lower value.

example, vehicle services required after 10,000 miles may be skipped, thus losing the valuable opportunity of identifying faults, or problems.

Options

Option 1: Do nothing. Allow the fraudulent "clocking" to continue.

Option 2: Increase the profile of the voluntary scheme, to raise the number of people taking advantage of the system.

Option 3: Replace the voluntary scheme with the introduction of a mandatory mileage recording (MMR) scheme, which will require the vehicle keeper, which may be the registered keeper, or other third party, to be responsible for the provision of mileage information. This may be at MoT stage, for example, with VOSA testers providing information for vehicles older than three years and at the point of service for those that do not yet require MoT. It may also be possible to consider point of vehicle transfer and relicensing, for appropriate means of data collection. In each case, information could be electronically verified against the information held by VOSA. The data could subsequently be sold to data verification agencies to allow their records to be updated.

Benefits and Costs to the Consumer (General Public)

Option 1:

Economic

There would be no additional cost/benefit to the consumer. It would still be possible for them to purchase a vehicle with a fraudulently low mileage, which falsely increased the value of the vehicle.

Social

No change - deceptively low mileage vehicles would continue to be driven on our roads. They would continue to represent a road safety risk because clocking can disguise worn components and lead to routine service checks being missed. Industry and the general public are lobbying for a solution to the problem of clocking and ignoring the issue is no longer a viable solution.

Environmental

Again no change - deceptively low-mileage vehicles would continue to be used on our roads. Because clocking disguises the true amount of mileage they have covered it is possible that they may be releasing higher levels of emissions.

Options 2 and 3:

Economic

Consumers would face little inconvenience in the provision of mileage information. Processes such as the collection of data at MoT, for example, would require no additional effort, or expense to the motorist. A valid MoT certificate is a statutory requirement, which must be renewed annually. If recorded as a part of this process, with the resulting information passed electronically to DVLA from, for example, VOSA, the customer would not be inconvenienced either by extra time spent, or financially.

Social

Customers would be reassured when purchasing a second hand vehicle, that the information held was as accurate as possible. This would increase customers' confidence in vehicles purchased. The database could be supplemented by commercially derived data from auction houses, dealers and other sources. By providing customers with more accurate vehicle information it is possible this could lead to improved road safety - by ensuring that vehicles are serviced at the correct times etc.

However, continuing with the voluntary code of practice would create no real benefit, no guaranteed reduction in the cost of the fraud and would render the scheme ineffective, as the unscrupulous could continue clocking with no threat of repercussions.

Environmental

More accurate vehicle information may help to ensure that vehicles are serviced at the correct times, this in turn could lead to improvements in a vehicles environmental performance.

Issues of Equity and Fairness

Introducing a mandatory mileage recording scheme would create equality across the second hand motor trade. Traders and public alike, with vehicles fitted with an odometer, would be required to supply mileage information. This would result in an accurate, reliable database, detailing figures from all sectors of the market, not just those that are traditionally compliant.

A statutory scheme would be more equitable than a voluntary code of practice. Businesses, for example, that chose to comply could complain, with some justification, that others in the industry were being allowed to exploit a loophole for criminal activity. A statutory scheme would ensure compliance across the board, with enforcement penalties for those that did not adhere.

Business Sectors Affected

Fleet and leasing companies may experience the greatest administrative impact, as they control a higher number of vehicles that would require regular verification. They may not be in possession of the vehicle, so are reliant on information being provided by other sources. Heavy goods vehicles do not require MoT, but instead require a Goods Testing Certificate. DVLA propose to introduce the electronic facility to verify data against VOSA's Goods Vehicle Testing database. In this way, goods vehicles may be treated in the same way as vehicles under MoT and the business will not be unfairly treated. DVLA will work with organisations affected to ensure collection methods introduced are cost-effective and practical.

Impact on Small Businesses

Small businesses (up to 49 employees), including those considered to be "micro" businesses (up to 9 employees) make up 95% of businesses in the UK. Within the transport industry, 37% of firms operate within the small business criteria. (Statistics taken from Department of Trade and Industry Statistical Press Release, 2003).

The introduction of mandatory mileage recording is not expected to have an impact on small businesses. It is proposed that the information will be collated at the point of MoT, or service, for example and currently, mileage information is recorded at each. Small businesses should not be under pressure to implement new systems and procedures, simply to continue with similar methods as now. DVLA will hold discussions with small businesses prior to implementation, to ensure the scheme is both cost effective and practical.

The results of the consultation did not raise concern about the costs, or administrative burden on small businesses. The British Vehicle Rental and Leasing Association (BVRLA) stated that the costs of implementation would be "negligible" for this size of organisation. However, the reduction in the net cost of "clocking" to both traders and consumers may have the opposite effect, *enhancing* the trading ability of the small firms. With growing confidence in the second hand market, consumers may be more inclined to "shop" at SMEs. With data verification checks readily available, the traders themselves will be less likely to fall victim to the purchase of "clocked" vehicles, raising revenue and preventing losses from the purchase of fraudulently operated vehicles.

Compliance Costs

The cost to businesses may vary depending on the size of a vehicle fleet. For large companies there may be an initial cost for the amendment to the mileage collection system and the implementation of

links to DVLA. Companies may also incur costs each time vehicles are relicensed or sold, introduced as annual running costs. The opportunity to provide estimated costs to businesses was included in the consultation document for provision by affected companies. The results may be found below and calculate that the estimated total cost to businesses is £2.15 million.

Estimated Costs for Businesses based on the collection of data at MoT/ Service/ vehicle transfer

Number of companies affected

- Number of rental companies - 1400
- Number of fleets - 600

Set up costs

- negligible as existing systems in place.

Running costs

- These have been estimated at an additional £250 per annum for rental companies to collate and advise of vehicle mileage.
- Fleet companies would experience higher costs of £3000 per annum.

Therefore:

1400 rental companies x £250 - Total £350,000

600 fleet companies x £3000 - Total 1.8 million

Complete Total: £2.15 million

The main cost to many organisations would result from the initial set up of the new systems. However, in recognising a need for this type of data verification, many organisations have established internal systems, gathering mileage information for company verification purposes. Some of this information is also passed to data verification companies, increasing the amount of accurate information available. These firms would experience very little, if any increase in the financial or administrative burden.

In arranging convenient times for the collection of mileage data, such as service, or MoT, the information would be collected by a third party and may therefore be considered more reliable than that provided by an interested party. Most trade organisations suggested that such an administrative change at relevant data collection times would create only a nominal increase in financial burden.

Competition Assessment

The introduction of the MMR scheme will affect the motor trade, in particular the second hand vehicle market and, to a lesser extent, the new-vehicle market. Fleet operators may experience a minor level of impact. The affect on competition, however, will be limited.

MMR will encompass all motor trade and fleet companies, no company will be entitled to an exemption. This means that all companies will be treated equally; any systems requirements will be necessary in all cases, so no one company will be favoured above another, nor will costs be reduced for individual organisations.

The implementation of such a scheme will not produce barriers to entry into the sector. Traders and fleet operators will be protected by the legislation, from the unwitting purchase of an illegally "clocked" vehicle. This ensures that sales maximise the profit possible on a legitimate vehicle in the case of a trader and that the resale value is consistent with legitimate vehicles, in the case of fleet operators. The customer will also be reassured by the validity of the data provided, which will encourage sales, promoting legitimate profit for the traders.

Whilst IT systems within the industry are progressing, technological advancement will not be hindered by the introduction of MMR. Automated links will speed the transfer of information and verification of vehicle data, for example, between VOSA and DVLA, and then between the customer and the data verification agency, will be fast, efficient and straightforward.

Firms will not be prevented from selling legitimately operated vehicles. They will not be constrained by location, or an unreasonable minimum standard of product. The only preventative measure to be introduced, is the inability to sell fraudulently adjusted vehicles, for an inflated profit.

The increase in reliability of information under the MMR scheme may have a slight impact on the new vehicle market. Assurance that the details about the vehicle are accurate may increase the customer willingness to purchase a used vehicle. This may encourage a small number of customers to purchase a used vehicle, rather than new. However, assessment of the consultation response did not highlight any reference to concerns about this number.

Consultation

The consultation held with the motor industry and relevant contacts demonstrated support for the introduction of measures to ensure a tighter control on the information supplied in relation to second hand vehicles. Reduced confidence in the industry, due to costs in the region of £100 million per year of fraudulent activities related to clocking alone, and the damage caused by incorrectly "clocked" vehicles has created an enhanced interest in DVLA introducing measures to alleviate the problem.

RAC Foundation for Motoring Ltd, for example, support the proposal, advocating a greater number of times that mileage information may be recorded, such as at road traffic accidents and from roadside rescue and recovery. Of the replies received to the proposals detailed in the consultation, support was unanimous; MMR is an initiative that has the backing of the trade.

Summary and Recommendation

It is no longer acceptable to ignore the problem of "clocking". Continued pressure from the motoring industry demands consideration be given to this increasing problem, that not only costs the industry and consumers dearly each year, but results in potentially worn vehicles being operated on the public roads, increasing the risk of accident and fatalities.

Mileage recording will help to solve the problems introduced by the unscrupulous few, improving confidence in the motoring industry. It will demonstrate the support for crime reduction initiatives and a continued commitment to enhancing road safety. It is no longer appropriate to rely on the voluntary scheme. In order to ensure that data is accurate, reliable and comprehensive, it is recommended that mileage recording be made mandatory.

Contact

Kelly - Louise Gadd
Driver & Vehicle Licensing Agency
Vehicle Policy Group
Swansea Vale 2
Tel : 01792 765164
Email: Kelly.gadd@dvla.gsi.gov.uk

Regulation of registration plate suppliers

Introduction

This document contains three separate but linked regulatory impact assessments;

- Extending the regulation of number plate suppliers to Scotland.
- Extending the regulation of number plate suppliers to Northern Ireland.

- Enhanced enforcement of the regulation of number plate suppliers in England and Wales.

The regulatory impact assessments have been presented in a single document because they deal with common subject matter and together they propose the creation of a single regulatory regime throughout the United Kingdom. However, the three proposals have been assessed separately and this is reflected in the format of this document.

The sections headed 'The background' below and the 'Summary and Recommendations' at the end apply to all three proposals.

The background

Part 2 of the Vehicles (Crime) Act 2001 contains provisions to regulate the supply of number plates in England and Wales. Since 1 January 2003, all number plate suppliers in England and Wales have been required to register with the Driver and Vehicle Licensing Agency (DVLA) and by August 2004, over 30,000 businesses operating from nearly 37,000 retail outlets had done so. A single registration fee of £40 is payable for each business premises operated by the supplier. Number plate suppliers are required to keep records of sales and to make certain checks to ensure that plates are sold only to customers who can establish a connection with the vehicle concerned and confirm their own identity.

Up until the introduction of this legislation, it was possible to buy number plates from any supplier without any checks or controls. This made it very easy for criminals to obtain false plates. The register of number plate suppliers has introduced control over the supply of number plates for the first time. Police intelligence sources indicate that the scheme has proved to be an obstacle to organised vehicle crime and the Association of Chief Police Officers fully supports the scheme and its extension throughout the UK.

The number plate manufacturing and supply industry, the motor trade and fleet operators, who are bulk users of number plates have adjusted to the new regime and are working with it successfully. The register consists overwhelmingly of small businesses and these have also adjusted to the new requirements.

DVLA has recently conducted a survey of 300 registered suppliers to obtain their views on the operation of the register. These were mainly small businesses. 92.5% of those who responded were content with the registration service offered by DVLA. A majority thought that the fee was reasonable, that the scheme had matched up to the expectations of the industry and that it was effective against vehicle crime.

While the register has brought much needed control over the supply of number plates, its effectiveness is undermined by the fact that it is limited to England and Wales.

It is proposed that enabling provisions should be introduced in the Road Safety Bill for the regulation of number plate suppliers in Scotland and Northern Ireland. DVLA would be responsible for registering number plate suppliers in Scotland and Northern Ireland on the existing register for England and Wales. This would have the effect of extending the regime already operating in England and Wales throughout the United Kingdom. It is envisaged that the regulations applying in Scotland and Northern Ireland would be either identical or very similar to those currently operating in England and Wales.

Public consultation took place on the understanding that the subject matter was devolved in relation to Scotland and reserved in relation to Northern Ireland. This would have required the Scottish Parliament to pass a Sewel motion to enable the UK Parliament to legislate. The Northern Ireland Assembly (when not suspended) can legislate on a reserved matter, but as the Assembly is suspended, the legislative function would revert to the Parliament at Westminster. However, the Scottish Executive and the Office of the Legislative Counsel and the Department of the Environment in Northern Ireland have reviewed the matter and it is now regarded as reserved for Scotland and excepted for Northern Ireland. This means that the Westminster Parliament has legislative competence in both cases.

It is also proposed to amend the 2001 Act as it applies in England and Wales to make enforcement more effective. Specifically it is proposed to extend enforcement powers to the Secretary of State and to English county councils in order to strengthen the enforcement powers already held by the police and unitary or district councils.

The 2001 Act makes it an offence to sell counterfeit registration plates, i.e. plates that do not display a valid registration number. It is proposed to add a new offence to prevent the sale of plates that do not comply with regulations relating to the font and spacing of characters etc. The sale of such plates will only be allowed if wording such as "not for use on a vehicle" or "for show only" is boldly displayed on the face of the plate. The decision over the precise wording will be delegated and so it will not appear in the primary legislation.

Part 1 - Extending the Regulation of Number Plate Suppliers to Scotland

Purpose and intended effect of measure

The objective

The objective is to make it more difficult to use number plates to disguise the identity of stolen vehicles or vehicles used in criminal activity in Scotland. This will be achieved by regulating the supply of number plates in Scotland by extending the current system operating in England and Wales.

The result of this proposal will be a single regulatory regime on both sides of the border, creating a common environment for business.

Risk Assessment

False number plates are used to disguise the identity of stolen vehicles and also to evade fines and charges. They can also facilitate serious criminal activity such as robbery. In Scotland, it is still possible to sell number plates that could be used for this purpose without any controls.

Number plate suppliers who are already subject to the current legislation have lobbied for a common system throughout the UK. Their efforts to comply with the legislation are undermined by competitors outside the regulated area.

In addition, the misrepresentation of vehicle registration marks can make it difficult or impossible for Automated Number Plate Reader (ANPR) cameras to identify registration marks and may be used to undermine eyewitness evidence. The Bill makes it illegal to sell "show plates" unless they display wording to the effect that they are not for road use, and this will be extended to Scotland.

Impact on Industry

The businesses affected fall into five categories.

- Manufacturers who supply finished plates as well as systems and components for the self-assembly of plates, often on national contracts with major motor retailers.
- Distributors who wholesale products supplied by manufacturers within their local market.
- Assemblers who make up plates for their customers. This type of supply is most commonly seen in the form of accessory shops, garage parts departments and MOT testing stations.
- Motor dealers.
- Fleet Operators who order plates in bulk for use on their own vehicles.

It should be noted, however, that the major number plate manufacturers in the UK are located in England.

Impact on Public Sector Delivery

DVLA would undertake the duty of registration authority for all of the UK, using the existing database, administrative processes, forms etc, so set - up costs would be small. DVLA would temporarily allocate a small number of staff to deal with the influx of registration applications. The registration fee is expected to meet the cost of maintaining the register, including enforcement. There would also have to be a publicity campaign prior to implementation.

DVLA currently employs three enforcement officers operating in England and Wales and it is intended that this sphere of responsibility would be extended to Scotland. Consideration will be given to whether an additional enforcement officer is needed for Scotland.

Options

The following four options have been considered carefully by Scottish Executive Ministers.

Option 1 - amendment by the UK Government of the Vehicles (Crime) Act 2001 so that the England and Wales registration scheme extends to Scotland.

Option 2 - a local authority licensing scheme implemented by Order under the Civic Government (Scotland) Act 1982;

Option 3 - Scottish primary legislation to set up a national Scottish Registration Scheme:

Option 4 - not to introduce statutory control of the supply of number plates in Scotland.

Option 1

The Scottish Executive has a shared interest with the UK Government in reducing vehicle crime. The option, to invite the UK Government to include provisions in its own legislative programme to extend the scheme to Scotland, would remove the need for Scottish primary legislation and for a separate Scottish administrative authority, making the DVLA the sole registration authority for Great Britain. A provision extending Part II to Scotland would relate to reserved matters under the Scotland Act and would therefore fall within the legislative competence of the UK Parliament.

Option 2

The Vehicles (Crime) Act 2001 introduced powers in England and Wales to regulate the motor salvage industry and require motor salvage operators to register with local authorities, and to keep records, and for the police to have right of entry to registered premises without warrant. The Civic Government (Scotland) Act 1982 already makes provision in Scotland for certain activities to be regulated. This includes metal dealers and scrap dealers who have to be licensed and are required to keep records of transactions, with the licensing departments of local police forces permitted to carry out inspections. The Civic Government (Scotland) Act 1982 also covers the licensing of taxis and private hire cars; second-hand dealers, and miscellaneous licences for example, for window cleaners, street and market traders.

Section 44 of the Act states that "the Secretary of State may, by order made by statutory instrument, designate any activity other than one of those specified in this part of the Act". Therefore, it may be possible to use the Civic Government Act 1982 provisions to enable Ministers to designate by order activities relating to supply of number plates for which a licence must be held.

However, in the case of number plate suppliers, there is no "fit and proper" test that must be met as a condition of registration. Therefore the existing scheme in England and Wales should be regarded as a registration scheme rather than a licensing regime.

Option 3

The option of introducing a separate national scheme through Scottish primary legislation would only be available for a devolved matter. It would involve the creation of a separate Scottish registration system. Consideration would have to be given to setting up a new registration authority in Scotland. Its operating and charging procedures would need to be as close as possible to those in England and

Wales, so as to avoid any loopholes developing and to minimise the administrative burden on suppliers operating on both sides of the border. A legislative opportunity would have to be found within the Scottish Parliament's business programme.

Option 4

Not to introduce legal regulation of the supply of number plates to Scotland would continue to undermine the scheme in England and Wales, by perpetuating a source of false plates that are no longer so readily available in England and Wales. Additionally it would mean that the number plate industry in Scotland would continue to be vulnerable to abuse by criminals.

Benefits

The following applies to *options 1, 2 and 3* as all represent alternative routes for introducing regulation.

Economic

It would create a consistent economic environment for businesses and the general public north and south of the border.

A reduction in vehicle crime would have economic benefits for insurers.

Environmental

There is no discernible environmental impact.

Social

There would be control over the supply of number plates in Scotland, ending the current situation where plates displaying any registration mark can be sold purely on request. This will make a valuable contribution to a reduction in vehicle crime by presenting an obstacle to criminals and providing the police with a source of information.

It would close off a potential alternative supply of false plates to criminals operating in England and Wales.

It would serve as a deterrent to those who seek to use false number plates to evade fines and charges.

It would aid the objective of ensuring that number plates meet the standard required by regulations and are easily recognisable to the eye and to ANPR equipment.

Option 4

Economic

Number plate suppliers would not incur additional costs to set up and administer a system for keeping records.

Environmental

There is no discernible environmental impact.

Social

There would be no benefits in terms of crime reduction or road safety.

Costs (options 1-3)

Economic

There would be a single registration fee, structured in the same way and set at the same level as in England and Wales. At present, this is set by regulation at £40 per business premises.

In addition to the registration fee, there will be some administrative cost for businesses involved in setting up and maintaining a system for recording sales either on paper or on a database (e.g. purchase of software, training of staff). This is not expected to be significant. Costs would increase in proportion to the size of the business and the number of plates sold.

Businesses that hold personal data are subject to the Data Protection Act and are required to store data under secure and discrete conditions. They are also required to notify as data controllers with the Office of the Information Commissioner (OIC). There is an annual fee of £35, but the view of the OIC is that affected businesses will already be subject to these requirements, so it is not a new cost.

There is no evidence that the legislation in England and Wales has led to any substantial increase in costs to the consumer. According to the British Number Plate Manufacturer's Association, the retail cost of number plates has remained relatively stable since before the introduction of the register in January 2003. The retail price varies but it is generally around £20 for a set of plates.

In the absence of a register it is not certain how many businesses would be affected, but a pro - rata calculation based on population relative to England and Wales suggests a rough estimate of 3,500 outlets. This gives a figure of £140,000. It has not been possible to obtain figures for other set - up costs due to the fact that the small businesses consulted tended to dismiss this as insignificant. Manufacturers offer software packages to number plate suppliers in England and Wales to enable them to keep records electronically, but there is no additional charge for this as it only involves a minor modification to an existing service. Many suppliers keep paper records. Therefore there is nothing that could be meaningfully added to the estimate of £140,000 set - up costs. Indications are that the annual running costs would be too insignificant to measure.

Environmental

There is no discernible environmental impact.

Social

There would be some inconvenience to the public, as it would be necessary to present documentation to buy number plates.

Equity and Fairness

The proposed measure would impact equally throughout the industry providing a common business environment for all number plate suppliers in the UK. It is proposed that each supplier would pay a single registration fee, which would be the same throughout the UK. As in England and Wales, the fee would be charged for each retail outlet so that smaller businesses would pay proportionately less. Administrative and set up costs for businesses would be in proportion to the scale of the operation and the number of plates sold.

Consultation with small businesses: the Small Firms' Impact Test

Further to the formal consultation process, DVLA telephoned a sample of small and medium sized businesses to seek their views on the potential costs of the proposal. The small businesses contacted were not able to provide detailed costs, but the majority considered them to be insignificant. The following is a representative sample of the results achieved by this method.

A Renault dealer in Edinburgh was part of a group with premises in the North of England. A computerised system had already been set up centrally for record keeping purposes. Running costs would be minimal as all that was required was an extension of existing procedures.

An accident repair centre in Clackmannan thought that registered supplier status would facilitate the process of obtaining stock from a manufacturer. Because the scheme was not mandatory in Scotland, they were not currently making documentary checks, but they did not anticipate any measurable running costs in view of the small number of plates sold.

A car accessories business in Perth said they had anticipated that the legislation would be extended to Scotland. They felt that there were no measurable costs apart from the registration fee.

Competition Assessment

The market affected is the supply of vehicle number plates to individuals and to bulk customers such as motor dealers and fleet operators. The manufacture of number plates in the UK is dominated by a handful of companies, with the largest claiming over 50% of the market and the top two over 70%. The largest 'High Street' retailer has over 400 sales outlets. However, these companies are based in England and are already registered as number plate suppliers, so these proposals mainly affect small businesses in Scotland such as motor factors and repair garages. They rely on the large manufacturers to supply their number plates or components for self assembly.

We do not believe that these proposals will have a detrimental effect on the ability of the affected businesses to maintain their position in the market. The set up and running costs would be proportionate to the size of the business, so that the smaller businesses would not be disadvantaged. The size of the register in England and Wales (over 30,000 businesses, compared with a pre-registration estimate of 27,000) suggests that the range and quantity of businesses supplying number plates has not been affected.

Enforcement and Sanctions

How will the proposals be enforced?

There would be powers to impose a fine and/or to suspend a registration for up to 5 years. There would be powers of entry and inspection for the police and persons appointed by Scottish local authorities, but there would be no duty on local authorities to fulfil this function. Powers of entry and inspection will also be delegated to the Secretary of State, and consideration will be given to whether DVLA should employ an additional enforcement officer for Scotland. In Scotland, it will fall to the procurator fiscal to institute proceedings.

Who will enforce this legislation?

The police, local authorities/trading standards and DVLA would all have enforcement powers.

Will the legislation impose criminal sanctions for non-compliance?

It would be an offence to fail to keep records and obtain documentary evidence; to supply number plates while unregistered; to supply plates or materials to an unregistered supplier; and to supply counterfeit plates and to supply plates that do not comply with regulations on the display of registration marks.

Monitoring and Review

DVLA as the registration authority would monitor the level of compliance with the requirements imposed by the scheme. The police would be able to assess the effect of the scheme on the reduction of vehicle crime.

A commitment was given in the Regulatory Impact Assessment that accompanied the Vehicles (Crime) Bill to review the scheme in England and Wales within two years from the date of the commencement order. The review is currently underway and this might result in amendments to the secondary legislation and/or administrative practices. Subsequent implementation in Scotland would benefit from any such changes.

Consultation

Within Government

There has been consultation between officials at DVLA and the Scottish Executive and correspondence between the responsible Ministers. The Scottish Executive conducted the public consultation. The Home Office has been kept informed through meetings of the Vehicle Crime

Reduction Action Team. A draft of this document was sent to the Small Business Service for Comment.

Public Consultation

DVLA undertook an extensive consultation of the business sector affected (much of which extends to Scotland) and others with a key interest prior to the introduction of the Vehicles (Crime) Act 2001 to control the supply of number plates in England and Wales. In light of this, together with the consultation in Scotland, Scottish Executive Ministers now wish to extend statutory control to Scotland.

The Scottish Executive issued a consultation paper on regulating the supply of number plates in Scotland in August 2002. The paper contained proposals, which complimented the consultation previously undertaken by DVLA in August 2000.

There was overall support for the proposal to regulate the supply of number plates in Scotland. Organisations expressing support for option 1 included the Association of Chief Police Officers in Scotland, the Association of Scottish Police Superintendents, the Scottish Police Federation, the Convention of Scottish Local Authorities and the CBI Scotland. There was no significant support for any of the other options.

Manufacturers and large retailers who operate on an all - Britain basis welcome extension to Scotland and indeed have lobbied for it from the inception of the register in England and Wales.

Recommendation

Scottish Executive Ministers consider **Option 1** to be the best option for providing secure, effective and consistent control over the supply of number plates on a UK - wide basis. (See declaration at end of document).

Part 2 - Extending the Regulation of Number Plate Suppliers to Northern Ireland

Purpose and intended effect of measure

The objective

The objective is to make it more difficult to use number plates to disguise the identity of stolen vehicles or vehicles used in criminal activity in Northern Ireland. This will be achieved by regulating the supply of number plates in Northern Ireland by extending the system currently operating in England and Wales.

Taken in conjunction with regulation in Scotland, the result of this proposal will be a single regulatory regime throughout the United Kingdom, creating a common environment for businesses.

Risk assessment

False number plates are used to disguise the identity of stolen vehicles and also used to evade fines and charges. It can also facilitate serious criminal activity such as robbery. In Northern Ireland it is still possible to sell number plates that could be used for this purpose without any controls.

Number plate suppliers who are already subject to the current legislation have lobbied for a common business environment throughout the UK. Their efforts to comply with the legislation are undermined by competitors outside the regulated area.

In addition, the misrepresentation of vehicle registration marks can make it difficult or impossible for automated number plate reader (ANPR) cameras to identify registration plates and may be used to undermine eye - witness evidence. The Bill makes it illegal to sell "show plates" unless they display wording to the effect that they are not for road use and this will also be extended to Northern Ireland.

Impact on industry

The businesses affected fall into five categories.

- Manufacturers who supply finished plates as well as systems and components for the self - assembly of plates, often on national contracts with major motor retailers.
- Distributors who wholesale products supplied by manufacturers within their local market.
- Assemblers who make up plates for their customers. This type of supply is most commonly seen in the form of accessory shops, MOT testing stations and garage parts departments.
- Motor dealers.
- Fleet operators who order plates in bulk for use on their own vehicles.

It should be noted, however, that the major number plate manufacturers in the UK are located in England.

Impact on Public Sector Delivery

The registration fee is expected to meet the cost of maintaining the register, including enforcement. DVLA will operate the existing registration regime to incorporate Northern Ireland suppliers, so set - up costs will be small. There would also have to be a publicity campaign prior to implementation.

DVLA currently employs three enforcement officers in England and Wales. It is intended that Driver and Vehicle Licensing Northern Ireland (DVLNI) would employ one full - time enforcement officer for Northern Ireland, to be financed out of the fee collected by DVLA.

Options

Three options have been identified.

Option 1 - To extend the scheme operating in England and Wales to Northern Ireland via a Westminster Bill.

Option 2 - To extend the scheme operating in England and Wales to Northern Ireland via an order in Council.

Option 3 - To maintain an unregulated number plate supply industry in Northern Ireland.

Option 1

To extend the scheme operating in England and Wales to Northern Ireland would provide consistent control over the supply of number plates on a UK wide basis. Use of a Westminster Bill would facilitate a single system for the UK using the register already administered by DVLA. The subject matter is considered to be excepted under the Northern Ireland Act.

Option 2

It was not considered appropriate to use an Order in Council, as it is proposed to administer a single register for the United Kingdom rather than separate registers for Great Britain and Northern Ireland.

Option 3

To continue with the present system would allow business to supply number plates free from any controls but this option would do nothing to reduce criminal activity. Furthermore, non- regulation would undermine the existing scheme in England and Wales thereby scaling down its effectiveness.

Benefits (Options 1 & 2)

Economic

Taken in conjunction with regulation in Scotland, it would create a consistent environment for businesses and the general public throughout the UK. Insurers would benefit from a reduction in vehicle crime.

Environmental

There is no discernible environmental impact.

Social

There would be control over the supply of number plates in Northern Ireland, ending the current situation where plates can be sold displaying any registration mark purely on request. This will make a valuable contribution to a reduction in vehicle crime by presenting an obstacle to criminals and providing the police with a source of information.

It would close off a potential alternative supply of false plates to criminals operating in England and Wales.

It would serve as a deterrent to those who seek to use false plates to evade fines and charges.

It would aid the objective of ensuring that number plates meet the standard required by regulations and are easily recognisable to the eye and to ANPR equipment.

Option 3

Economic

Number plate suppliers would not incur additional costs to set up and administer a system for keeping records.

Environmental

There is no discernible environmental impact.

Social

There would be no benefits in terms of crime reduction or road safety.

Costs (options 1-2)

Economic

There would be a single registration fee, structured in the same way and set at the same level as in England and Wales. At present this is set by regulation at £40 per business premises.

In addition to the registration fee, there will be some administrative cost for businesses involved in setting up and maintaining a system for recording sales either on paper or on a database (e.g. purchase of software, training of staff). This is not expected to be significant. Costs would increase in proportion to the size of the business and the number of plates sold.

Businesses that hold personal data are subject to the Data Protection Act and are required to store data under discrete and secure conditions. They are also required to notify the Office of the Information Commissioner (OIC). There is an annual fee of £35, but the view of the OIC is that many affected businesses will already be subject to these requirements, so it is not a new cost.

There is no evidence that the current legislation has led to any significant additional costs to the consumer in England and Wales. According to the British Number Plate Manufacturers Association, the retail cost of number plates has remained stable since before the introduction of the register in January 2003. The retail price varies, but it is generally around £20 for a set of plates.

In the absence of a register, it is not certain how many businesses would be affected, but a pro-rata calculation based on population relative to England and Wales suggests a rough estimate of 1,000

outlets. This would result in a total registration cost to business of £40,000. It has not been possible to obtain figures for other set - up costs due to the fact that the small businesses consulted tended to dismiss this as insignificant. Manufacturers supply software packages to suppliers in England and Wales to enable them to keep records electronically. There is no additional charge for this as it just involves a minor modification to an existing service. Many suppliers keep paper records. Therefore there is nothing that could meaningfully be added to the estimated £40,000 set - up costs. Indications are that the annual running costs would be too insignificant to measure.

Environmental

There is no discernible environmental impact.

Social

There would be some inconvenience to the public as it would be necessary to provide documentary evidence to buy number plates.

Equity and Fairness

The proposed measure would impact equally throughout the industry providing a common business environment for all number plate supplies throughout the UK. It is proposed that each supplier would pay a single registration fee, which would be the same throughout the UK. As in England and Wales, the fee would be charged for each retail outlet so that smaller businesses would pay proportionately less. Administrative costs for businesses would be in proportion to the scale of the operation and the number of plates sold.

Consultation with small business: the small firms' Impact Test

The views of small and medium sized businesses were sought in order to assess the effects of the proposal. Most of the small businesses contacted were aware of the scheme in England and Wales and fully expected it to be extended to Northern Ireland at some stage. Further to the issue of the public consultation paper, DVLA sent reminders to selected small businesses and telephoned those that had not responded by the deadline. The businesses contacted were not able to provide detailed cost estimates, but the majority considered the potential cost to be insignificant.

Competition Assessment

The market affected is the supply of vehicle number plates to individuals and to bulk customers such as motor dealers and fleet operators. The manufacture of number plates in the UK is dominated by a handful of companies, with the largest claiming over 50% of the market and the top two over 70%. However, these companies are based in England and are already registered, so these proposals mainly affect small businesses in Northern Ireland such as motor factors and repair garages. They rely on the large British manufacturers or suppliers in the Republic of Ireland for their number plates or components for self assembly.

We do not believe this measure will have a detrimental effect on competition. On the contrary, it will provide a consistent framework of regulation that will be welcomed by those businesses already registered in England and Wales. The size of the register (over 30,000 businesses, compared with a pre-registration estimate of 27,000) suggests that the range and quantity of businesses supplying number plates has not been affected.

Enforcement and Sanctions

How will the proposal be enforced?

There would be powers to cancel or suspend a registration and powers of entry and inspection for the Police Service of Northern Ireland (PSNI) and the Secretary of State (in practice DVLNI). It is envisaged that the Driver and Vehicle Licensing Northern Ireland (DVLNI) would appoint a full -time enforcement officer. Unlike England and Wales, trading standards is not a local authority function in Northern Ireland.

Who will enforce the legislation?

The PSNI and DVLNI.

Will the legislation impose criminal sanctions for non-compliance?

It would be an offence to fail to keep records and obtain documentary evidence; to supply number plates while unregistered; to supply plates or materials to an unregistered supplier; to supply counterfeit plate; and to supply plates that do not comply with regulations on the display of registration marks.

Monitoring and Review

DVLA and DVLNI would jointly monitor the level of compliance with the requirements imposed by the scheme. The PSNI would be able to assess the effect of the scheme on the reduction of vehicle crime.

A commitment was given in the Regulatory Impact Assessment that accompanied the Vehicles (Crime) Bill to review the scheme in England and Wales within two years from the date of the commencement order. The review is currently underway and this might result in amendments to the secondary legislation and/or administrative practises. Subsequent implementation in Northern Ireland would benefit from any such changes.

Consultation

Within Government

There has been close collaboration between officials at DVLA, DVLNI, DOENI and the Northern Ireland Office. This included a series of meetings that also involved the PSNI. There has been correspondence between the responsible ministers. The Home Office has been kept informed through meetings of the Vehicle Crime Reduction Action Team. A draft of this document was passed to the Small Business Service for comment.

Public Consultation

DVLA issued a consultation paper on regulating the supply of number plates in Northern Ireland on 23 January 2004. The paper contained the proposal to introduce in Northern Ireland a system of statutory controls of number plate suppliers similar to that which exists in England and Wales. The consultation period ended on 16 April.

Initially, the consultation received very few responses, but subsequent telephone canvassing of consultees gave a clear indication of the views of those affected by the proposals.

The proposals to regulate the supply of number plates met with general support as a means of fighting vehicle crime. All businesses contacted agreed that they would incur some set-up and running costs, but as in England and Wales they were not considered to be significant and the registration fee was the only cost that they could quantify.

Several consultees expressed concern about companies operating both in Northern Ireland and in the Republic of Ireland. They thought that some companies might relocate their number plate business activity to the Republic of Ireland. However, this necessitates removing all parts of the business from Northern Ireland and is not expected to have a significant impact. The presence of shared borders has not deterred other European countries from taking measure to regulate their own number plate supply industries.

Recommendation

The options have been carefully considered and **Option 1** was considered to be the preferred option to provide the most secure control over the supply of number plates. (see declaration at end of document.)

Part 3 - Enhancing Enforcement of the Regulation of Number Plate Suppliers in England and Wales.

Purpose and intended effect of measure

The objective

To enforce the regulation of number plate suppliers more effectively by delegating powers of entry, inspection and prosecution to the Secretary of State and to English County Councils. To ensure that number plates comply with display regulations.

Risk assessment

The scheme has succeeded in registering over 30,000 businesses in England and Wales. DVLA receives calls on a daily basis from number plate suppliers seeking advice. Many suppliers are clearly taking great care to ensure that they do not supply plates that could be used for illegal purposes. However, many others appear to be flouting the law and DVLA has received numerous complaints about number plate suppliers who have supplied plates without making the requisite checks or plates that do not conform to the regulations. As a result of letters issued by DVLA some businesses have withdrawn non-regulation plates from the market and the police have issued several cautions. Three convictions have been secured resulting in fines. The new powers of enforcement are intended to deal more effectively with those number plate suppliers who flout the law and undermine the efforts of legitimate businesses.

Police officers and persons appointed by local authorities, have powers to enter and inspect registered premises in England and Wales. Although DVLA has appointed full - time enforcement officers, they can only support and advise the police or local authorities rather than respond directly to complaints. It is not intended that DVLA officers would replace the existing enforcement agencies. Rather they would provide an additional resource.

Many trading standards officers are employed by county councils in England. Currently, they cannot respond directly to complaints, but must liaise with the equivalent borough council. This is a disincentive to effective enforcement.

Number plate suppliers sometimes try to avoid regulation by claiming that they only supply "show plates" not for road use. In reality, these plates often find their way on to vehicles. This is a loophole enabling criminals to obtain plates without the requisite checks. Misrepresented plates are also difficult for eye witnesses or cameras to read.

Impact on industry

Registered and unregistered number plate suppliers would be affected but there would be no additional costs. There would be no impact on legitimate businesses.

Impact on Public Sector Delivery

DVLA already employs three full - time enforcement officers for England and Wales. Much of their work involves liaison with police forces and local authorities to report suspected infringements, share intelligence, arrange joint inspections and advise on the requirements of the legislation. DVLA enforcement officers would have new legal powers to enter premises, inspect records and bring proceedings in their own right. While the liaison function would continue in order to build partnerships with the existing enforcement authorities, DVLA officers would have the facility to follow up complaints directly rather than having to seek assistance from police or local authorities. This would save time, allowing for more premises to be inspected and more prosecutions to be brought against alleged offenders. There are no resource implications for DVLA, but existing resources would be used more effectively.

Trading standards officers working for English county councils would obtain power to enforce, but no duty would be imposed. Their costs would depend on the resources allocated to inspections, following

up complaints and bringing proceedings. In some cases, inspections of the records held by number plate suppliers might be included as part of the routine inspection of business premises.

Options

Two options have been identified;

Option 1- To extend the powers of enforcement to the Secretary of State and county councils, and to ensure that plates comply with display regulations.

Option 2- To maintain current powers of enforcement.

Option 1

To extend the powers of enforcement would strengthen the enforcement effort to tackle more effectively the illegal practice of using false number plates. The effectiveness of the regulatory regime and its credibility within the industry will be enhanced.

Option 2

To continue with just the existing powers of enforcement would undermine the effectiveness of the scheme and threaten its credibility.

Benefits

Economic

Option 1

There would be a benefit to the taxpayer and insurers through the reduction in vehicle crime and its costs to society. It is anticipated that DVLA enforcement officers could inspect around 1,000 businesses a year in addition to those carried out by police and trading standards. This in itself is likely to have a deterrent effect and should also lead to more prosecutions. However, it is impossible to quantify the extent to which vehicle crime would be reduced as a result of this measure alone.

Option 2

No economic benefit would result.

Environmental

There is no discernible impact on the environment.

Social

Option 1

The additional enforcement powers would benefit legitimate suppliers in that the entire industry would be required to operate the same system of controls thereby reducing the number of illegal suppliers.

Option 2

No social benefit would result.

Costs

Economic

Option 1

There would be no additional costs to the general public. DVLA's enforcement costs would be met from the registration fee.

Option 2

No additional cost.

Environmental

There is no discernible impact on the environment.

Social

Option 1.

Better enforcement would lead to a more effective scheme for reducing vehicle crime.

Option 2

No benefit.

Equity and Fairness

Effective enforcement is the key to ensuring that the register of number plate suppliers operates fairly. Legitimate businesses face an unfair disadvantage if competitors are allowed to flout the law. The additional enforcement powers would benefit legitimate suppliers in that the entire industry would be required to operate the same system of controls thereby reducing the number of illegal suppliers.

Consultation with small businesses: the Small firms' Impact Test

DVLA has recently conducted a random survey of 300 registered suppliers. One of the questions in the survey was; "Do you think the enforcement powers are robust enough to be a deterrent to non-compliance?" to which 56.1 % replied 'yes' and 43.9% replied 'no'.

It is possible that the "yes" responses reflected a certain unease that enforcement might become over-zealous. It should be noted that the proposal is not to make enforcement more draconian, but to ensure that those best placed to carry out enforcement have the legal power to do so. The current role of DVLA enforcement officers is partly to advise suppliers on the operation of the scheme rather than to seek a prosecution for every minor transgression. This approach would continue, with enforcement targeted at more serious cases.

Competition Assessment

The market affected is the supply of vehicle number plates to individuals and to bulk customers such as motor dealers and fleet operators. The manufacture of number plates in the UK is dominated by a handful of companies, with the largest claiming over 50% of the market and the top two claiming over 70%. The largest 'High Street' retailer has over 400 outlets. However, the vast majority of number plate suppliers are small businesses such as motor factors and repair garages.

We do not believe that these proposals will have a detrimental effect on the ability of the affected businesses to maintain their position in the market. At present, legitimate number plate suppliers suffer at the hands of competitors who ignore the law. If a customer has not brought the required documentary evidence, it is sometimes easier to find a less rigorous supplier rather than return home for the relevant documents. As well as providing an outlet for obtaining false plates, this is seen as unfair by the legitimate trade. Only those businesses that aid the supply of false, counterfeit or misrepresented plates would suffer any adverse consequences.

Enforcement and Sanctions

Not applicable.

Monitoring and Review

DVLA as the registration authority will record convictions and will continue to liaise with police and trading standards officers.

Consultation

Within Government

DVLA contacted the Office of the Deputy Prime Minister regarding the possible effects on local government funding. There was no objection to extending existing powers to county councils. The Home Office was kept informed through meetings of the Vehicle Crime reduction Action Team. A draft of this document was passed to the Small Business service for comment.

Public Consultation

There was no formal consultation paper, but DVLA contacted the Association of Chief Police Officers, the Local Government Association, the Trading Standards Institute, and Local Authorities Co-ordinators of Regulatory Services (LACORS). None of these foresaw any difficulties with the proposals.

Day to day liaison between DVLA and trading standards officers has revealed the need for these measures in practice. Trading standards officers employed by county councils who receive complaints about transgressions are placed in a difficult position. They would welcome clear powers that would enable them to take action where they see fit.

Number Plate manufacturers have consistently raised the need for more robust enforcement.

Recommendation

It is recommended to proceed with **option 1**. (See declaration at end of document.)

Overall Summary and Recommendations (Part1-3)

It is recommended that powers should be obtained through the Road Safety Bill to extend the scheme operating in England and Wales to Scotland and Northern Ireland. A single register will be administered by DVLA for the entire UK.

It is expected that regulations made under this legislation would be identical or very similar to regulations for England and Wales.

It is further recommended to introduce new powers to enable the Secretary of State to enter and inspect the premises of registered suppliers and to bring proceedings. The same powers should also be extended to English County Councils to enable trading standards officers employed by these bodies to enforce the legislation. The sale of "show plates" should be illegal unless they display the wording to the effect that they are not for road use.

Contact Point:

Dave Warren
Driver & Vehicle Licensing Agency
Tel: 01792 765197
Email: dave.warren@dvla.gsi.gov.uk

Disclosure to foreign authorities of licensing and registration information (*Enshrining the EUCARIS Treaty in UK Legislation*)

Purpose & intended effect of measure

Introduction

The UK has negotiated a treaty with a number of European partners concerning the European Vehicle and Driving Licence Information System (EUCARIS). The treaty provides for the electronic exchange of driver and vehicle registration information between the parties. The system aims to exchange information rapidly to ensure that the registers of the parties are accurate to assist in

preventing, investigating and prosecuting driving licence and vehicle registration crime. It is particularly aimed at identifying and preventing the sale of stolen vehicles within the treaty area.

It is anticipated that the EU Commission is considering the introduction of a next generation system (RESPER). This will operate under the same principles but use updated hardware and software. Even if the EUCARIS system is superseded the requirement to data share will remain.

The Issue

The Driver and Vehicle Licensing Agency is registered as a data controller under the Data Protection Act. There is no basis in primary UK legislation to release information to our counterparts overseas. Until appropriate domestic legislation is in place, the UK cannot ratify the treaty.

Objective

It is proposed to amend legislation to allow release of driver and vehicle registration information to foreign registrars. The ultimate aim is to bring about the forced reduction in the import/export of stolen and/or illegally tampered with vehicles, and to reduce the number of drivers 'banned' within the territories of participating countries from driving in the UK.

Risks

Without the EUCARIS system there is no reliable method of exchanging information with our European partners to reduce cross border vehicle crime and improve road safety. By utilising the electronic link with our partners it will make it much more difficult for criminals to re-register stolen vehicles and commit other vehicle frauds. In excess of 1.1 million vehicles were stolen in the EU in 2003. It is estimated that in excess of 110,000 of these vehicles were moved across borders. With an average insurance value of £10,000 per car, criminals are shipping stolen vehicles with a value of in excess of £1.1 billion. Failure by the UK to ratify also prevents expansion of EUCARIS as the treaty has to be ratified by four of the original parties before other states can accede to the treaty.

Options

Two options have been identified:

Option 1 - continue with the status quo. There is no current domestic legislation that allows the exchange of information as described above. If no information exchange takes place the UK would be in breach of its international obligations to the EUCARIS members. The UK was a major participant in the preparation of the treaty; it would therefore be extremely embarrassing if it were not to ratify.

Option 2 - amend existing legislation and thereby pave the way for the UK to ratify the EUCARIS treaty and meet its treaty obligations. The ability to exchange information with participating states is a valuable tool in the fight against crime. We are holding up the expansion of EUCARIS to other European countries by not ratifying the Treaty.

Benefits

Option 1.

Economic & Social

There are no obvious benefits in maintaining the current scenario. Import and export of vehicles within the territories of participating countries would continue but without the additional checks undertaken through EUCARIS. Likewise the additional checks made on drivers' eligibility to drive would not be undertaken. If particulars relating to a vehicle stolen in the UK are not disclosed to other EUCARIS contracting States they could not assist in its recovery.

Environmental

No discernible environmental benefits have been identified.

Option 2.

Economic & Social

The treaty is a reciprocal arrangement; the UK makes available driver and vehicle information to the other treaty partners and they, in turn, make information available to the UK. The proposal concerns only one element, the release of information by the UK to overseas authorities. Within that element the UK motoring public and the motor trade and, less directly, the insurance industry will benefit from the deterrent effect of EUCARIS. For example, once a stolen vehicle is taken into the territory of one of the EUCARIS contracting parties, any attempt to register the vehicle will reveal the status and so increase the potential for recovery. Insurance companies would have an increased chance of stolen vehicles being returned to them from the treaty areas. Statistics from Europol indicate that in excess of 33,000 stolen vehicles were shipped out of the UK²². It is estimated that across the EU in excess of 110,000 stolen vehicles were moved across borders. Any measure that disrupts this flow will have significant benefits for EU citizens. If the average value of a car was assumed to be £10,000, the cost to the Insurance Industry across the EU is in excess of £1.1 billion annually.

Benefits would also arise from receiving information from treaty partners. The UK enforcement authorities would obtain information regarding illegal imports and drivers banned in treaty countries. As a direct result insurance companies, the motor trade and individual motorists would benefit from the reduction in the numbers of ineligible drivers and stolen/illegally imported vehicles using the roads. In addition, the motorist and motor trade in general will benefit from the reduction in the likelihood of purchasing a stolen or 'ringed' vehicle imported from participating countries. This, in turn, will directly benefit the insurance industry.

Environmental

No discernible environmental benefits have been identified.

Compliance Costs for Business, Charities and Voluntary Organisations

The proposals have no obvious compliance implications for businesses, charities or voluntary organisations, although views are sought.

Policy Costs

Option 1

Economic & Social

330,000 vehicles per year are stolen and it is estimated that between 10%-15% of this total are shipped abroad. If the average car were valued for insurance purposes at £10,000 the total annual cost to the insurance industry would be in excess of £330 million. There are also significant costs for the individual in terms of loss of amenity. This information is caveat as the exact number of vehicles stolen for export is unknown.

Environmental

No discernible environmental benefits have been identified.

Option 2

Economic & Social

Permitting the release of information to foreign registers does not entail any policy costs. Indeed, it is anticipated that making full use of the EUCARIS system will bring benefit to the individual motorist, the motor trade in general and the insurance industry.

²² Statistics for the period 1999 - 2003, EUROPOL CS4 Vehicle Crime, 31 August 2004

Environmental

No discernible environmental benefits have been identified.

Implementation Costs

Option 1.

There are no implementation costs associated with maintaining the current arrangements.

Option 2.

The only costs associated with the implementation of this proposal are the administrative costs of enabling the legislation and providing the information electronically to the participating countries. These costs fall on the Secretary of State.

Effect on Small Businesses

It is not anticipated that this proposal will have an impact on Small Businesses except to the extent that they would benefit from the expected reduction in the theft of vehicles and the increased recovery rates of those vehicles that are stolen and shipped to EUCARIS member states.

Competition

We do not believe that there is any business sector for which there will be any adverse competition implications arising from either of these proposals.

Enforcement and Sanctions

There will be no new enforcement implications or sanctions as a result of this proposal. The enforcement authorities would, however, use the information provided as an additional 'crime-fighting' tool.

Summary

If the necessary legislation is not passed efforts to reduce the numbers of motor vehicles stolen for shipment overseas will be hampered. There are real benefits that will be enjoyed by motorists, the motor trade and the insurance industry.

Contact Point

Andy Wong
Crime Reduction Group
Swansea Vale 2
Tel 01792 765318
Fax 01792 765206
e-mail: andy.wong@dvla.gsi.gov.uk

Compulsory surrender of old form licences

Issues & Objectives

Issues

The photocard driving licence was introduced to comply with the second EC Directive on driving licences (91/439/EC). This requires a photograph of the driver to be included on all UK driving licences issued from July 2001. The photocard licence was introduced well ahead of that date to allow a controlled progression to full implementation. DVLA began the issue of photocards on a phased basis from July 1998. Since March 2000, all driving licences issued have been photocards. Over 20 million photocards have been issued but some 19 million paper licences remain in circulation. Existing paper licences will remain in force until they expire or the details on them change.

It is also possible that future improvements in the security of the photocard licence document may result in a decision to recall older, less secure photocard formats. This will help to combat licence and other types of fraud by providing more secure licence documents.

Objectives

The main objectives behind the introduction of photocard licences were to:

- ensure that the person obtaining a driving licence, taking a driving test and gaining a full licence are one and the same;
- to prevent someone from obtaining a driving licence before they are old enough to do so;
- and to minimise the chances of a person holding more than one licence, either by accident or design.

Although there are no current plans to recall old format, in particular paper licences, DVLA is seeking the power should Ministers decide that is necessary in the future.

A recall of older format, in particular paper, licences would improve the security of the licence and lead to more accurate records being held. This in turn would improve enforcement of road traffic law and so aid road safety.

Risk Assessment

If there were no recall of existing paper licences, there would be a two-tier licence system. The more paper licences that remained in circulation, the less likely that the objectives (as described above) could be met. It is inevitable that as there were no identity checks in place for the issue of paper licences, there would have been a higher degree of fraudulently obtained licences. A recall of paper licences would help identify those cases. Lawyers have advised that there would be no conflict with the Human Rights Act as it would merely be the format of the licence that would be affected. There would be no loss of driving entitlement.

If paper licences were not recalled, it would be easier to counterfeit existing paper licences, as the security features are not as extensive as those for photocard licences.

There are currently around 19 million paper licences remaining in circulation. As all licences issued are now photocards, the number in circulation will increase at around 5-6 million per annum and paper licences would decrease proportionately.

Options

- Do nothing
- Introduce a power to recall paper licences

Benefits

Economic & Social

A power to recall old format licences would assist Government policy on tackling identity fraud. It would also lead to a significant improvement in the accuracy of the DVLA's driver licensing database as it is thought that fraudulent applications would have been made for paper licences where no identity checks took place. It is impossible to quantify the extent of the problem. It may be that some drivers who have used false details to obtain paper licences would now refuse to make an application, for example to notify a change of address, as they are aware that they would have to produce evidence of identity. If paper licences were recalled, it would be more difficult for these individuals to escape detection.

Although there would be a gradual natural replacement of paper licences for photocards, there would otherwise continue to be a core of licence holders who would not be required make any changes to

their licence (for example change of address) until they reached their 70th birthday. There would also be a hard core of paper licence holders who would not wish to contact the DVLA as they might have obtained their paper licence fraudulently.

The Home Secretary produced a report as part of the Government's Vehicle Crime Reduction Action Team, "Tackling Vehicle Crime - A Five Year Strategy" in September 1999. Amongst the proposals considered was the mandatory carriage of driving licences. The report concluded that there was no case for mandatory carriage at that time but concluded, "...the police placed particular weight on the ability to check identity at the roadside, making use of photographs on licences. This benefit would be enhanced if paper driving licences were recalled and replaced with photocard licences."

The power to recall paper licences is desirable to ensure that the benefits of photocard licences could be fully exploited. Where this leads to more accurate records there would be improvements in the enforcement of road traffic law.

Environmental

No discernible environmental benefits have been identified.

Results of Consultations

A consultation document - "Photographs on Driving Licences - Further Consultation on Recommendations emerging from the Feasibility Study" issued in 1994, advised that existing paper licences would remain valid until they expire or the details on them change. There was little comment on this aspect of the consultation but the Association of Chief Police Officers did favour a cut off date of 10 years following implementation of photocard licences.

Competition assessment

Not applicable.

Enforcement and sanctions

Failure to surrender a recalled licence would be an offence with a fine not exceeding £1,000 payable on conviction. Prosecution would be a matter for the police.

Monitoring and review

Compliance with any recall exercise would be monitored. As non-compliance would be an offence it is unlikely that any further provision will be required.

Costs

Economic

The costs involved in any recall exercise will to some extent be determined by the number of licences in circulation that are of the format being recalled

A recall of paper licences, for example, may need to be carried out in a phased basis in order to handle the volume of transactions involved. It would require computer system changes and overheads at DVLA to administer the recall exercise. There would also have to be a significant publicity campaign. This should take place at least two years in advance of any recall to ensure that adequate and full notice is given to the drivers affected. Finally, there would be the costs of processing applications and issuing driving licences. Based on a two year recall programme it is estimated that the costs to the Agency would be around £35 to £40 million per annum.

Social & Environmental

No discernible environmental and social costs have been identified.

Risk Assessment - funding

Without a power to charge a fee, licences issued to replace recalled licences would have to be issued free of charge. The costs would have to be recouped through raising other fees, which would produce a less equitable fee structure and could result in increased unlicensed driving if the cost of a first provisional licence had to be increased. It is estimated that the fee level for a licence issued following recall may be in the region £5.00 - £10.00.

Costs to businesses

It is not expected that there would be a significant compliance cost to businesses. Although some organisations elect to pay their drivers' fees, driving licences are considered to be a matter for individual drivers.

Consultation with small businesses

The proposal will not affect businesses, as the responsibility for surrendering a withdrawn licence would be a matter for the individual driver. The payment of any fee would also fall to the individual driver. Before the power is used to make regulations DVLA will consult with the public and produce a more detailed Regulatory Impact Assessment.

Costs to private individuals

Individual drivers would be required to pay a fee for the administrative costs of issuing a photocard.

Recall of other licences costs

Having the power to charge for the issue of licences following any decision to recall older format photocard licences, will allow the Agency to recoup its costs without raising other licence fees.

Summary and recommendation

The Government commends the introduction of a power to recall old format licences as it may be wise in the future to recall licences that are not in the most secure formats. A fee may be required to help to cover the costs.

Contact point:

Malcolm Davie
Drivers Policy Group
Driver & Vehicle Licensing Agency
Swansea Vale 2, Llansamlet
Swansea
SA6 7JL
Tel: 01792 765227
Email: Malcolm.davie@dvla.gsi.gov.uk

Fee for renewal of photocard licences

Issues & Objectives

Issues

Section 99(7) of the Road Traffic Act 1988 requires a holder of a photocard driving licence to surrender it to the Secretary of State (in practice DVLA) when it has been in force for a period of more than ten years. Failure to do so is an offence punishable by a fine of £1,000.

The principle for charging a fee for periodic renewals of the photograph on the photocard driving licence was first raised in the DVLA Consultation on photographs on Driving Licences issued in 1994. A validity period of up to ten years was proposed to strike a reasonable balance between the need to ensure that the photograph continued to be an accurate likeness of the driver and the possible inconvenience of regular renewals. A ten-year validity period for driving licences has proved

effective in some other member states and in Northern Ireland. Responses to this aspect of the consultation were favourable. There were no objections. The British passport is also valid for ten years.

Objective

The change is to ensure that all driving licence fee increases are kept to a minimum by limiting the amount of cross-subsidisation from other driving licence application fees.

Risk Assessment

It is estimated that DVLA will have an additional minimum £60 million per annum in costs when photo renewal commences.

If DVLA did not have the power to charge a fee, licences issued following ten-yearly renewal would have to be issued free of charge, resulting in an unacceptable level of cross-subsidisation. The fee level for other transactions would have to be increased so providing a less equitable fee structure. It is estimated that the fee level for the issue of a licence with an updated photograph will be in the range of £15.00 - £20.00.

Options

- Do nothing
- Introduce a fee for photograph renewal

Benefits

Economic & Social

Introducing a charge for photograph renewal would keep across the board fee increases to a minimum by limiting the amount of cross-subsidisation from other driving licence application fees, and would result in a more equitable tariff for all licence holders.

The cost of obtaining a first driving licence may be perceived as a barrier to new drivers obtaining a driving licence. If we were to raise the fee for first driving licences, currently £38.00, because of additional costs, there is a danger this would create an additional barrier which could result in an increase in unlicensed and uninsured driving. If more drivers felt able to register with DVLA this will improve the accuracy of the driver record thereby aiding road traffic law enforcement.

Environmental

No discernible environmental benefits have been identified.

Costs

Economic

Costs to business - It is not anticipated that there would be any costs to businesses in general as the responsibility for photograph renewal lies with the licence holder.

Costs to private individuals - The introduction of a fee for photograph renewal would require all those who fulfil their legal obligation to provide a photograph at ten-yearly intervals to bear the cost of providing a photograph and the photograph renewal fee. This would affect all holders of photocard driving licences (currently over £20 million drivers hold such licences).

Public sector costs - There would be costs for DVLA associated with minor systems changes, poster/form and leaflet amendments and the introduction of a renewal reminder form.

Environmental & Social

No discernible environmental or social costs have been identified.

Results of Consultations

The principle for charging a fee for periodic renewals of the photograph on the photocard driving licence was first raised in the DVLA Consultation on fee proposals - Driving Licences document issued in 1994. Responses to this aspect of the consultation were favourable.

Consultation with Small Businesses

Not applicable - as mentioned above the provision should have no impact on businesses, as the responsibility for renewal would lie with the licence holder.

Enforcement and Sanctions

Failure to comply with the requirement to surrender the licence after 10 years could result in prosecution. The police would have the power to enforce the law.

Competition assessment

The proposal will not impact upon businesses, the responsibility for the renewal of a photocard licence is the responsibility of the licence holder.

Monitoring and review

With the renewal of photographs commencing in July 2008, DVLA will monitor closely compliance with the law. As it will be an offence not to surrender a licence for the renewal of the photograph, it is not expected that any further provision will be needed.

Summary and recommendation

Without the power to charge a fee, DVLA would have to recoup the costs of issuing these licences by raising other driving licence fees.

Contact point

Malcolm Davie
Drivers Policy Group
Driver & Vehicle Licensing Agency
Swansea Vale 2, Llansamlet
Swansea
SA6 7JL
Tel: 01792 765227
Email: Malcolm.davie@dvla.gsi.gov.uk

Section 6 - Other Road Safety Related Issues

Section 6 - Summary of contents

Proposal & (Extent)	Those affected	RIA or statement
Transport of radioactive Material (GB only)	RMTD Inspectors, Companies engaged in illegal activity	Statement only - the proposal will have no impact on business etc
Powers to provide Road Safety to Local Authorities (England & Wales)	Local Authorities in England & Wales	Statement only - the proposal will have no impact on business etc
Vehicles modified to run on fuel stored under pressure (GB only)	The alternative fuel conversion & installation industry, applicable vehicle owners	RIA provided
PHVs in London (England & Wales)	The Private Hire Vehicle Industry not yet covered by the existing regulatory regime and Transport For London.	RIA provided

Powers to Regulate Transport of Radioactive Material

The transportation of radioactive materials is regulated by the Radioactive Material (Road Transport) Act 1991. However, these regulations are insufficient for RMTD Inspectors to require answers to be given to important questions or inquiries. Effectively this means that we cannot require people to give us a formal statement acceptable in a court of law. Whilst there is no direct risk to public safety as a result of these powers not being in place, the lack of provision has hindered the Department's ability to bring about successful prosecutions. This prevents the proper enforcement of these safety related regulations and it is proposed to take such a power to promote better enforcement.

With the introduction of these proposed powers, it will be possible for more complete evidence to be compiled. This has the potential to save both time and costs, for example, improved enforcement powers will improve efficiency of the enforcement process and save money by decreasing the likelihood of abortive costs resulting from failed prosecutions.

Costs to business will be negligible, only those individuals or companies engaged in illegal activity (perhaps only one or two non-compliant organisations per year) and RMTD inspectors will be affected by the new powers. A public services threshold test has been carried out and this has indicated that there is no need for a RIA to be produced. This provision will not therefore be subject to any further examination.

Contact

Christopher Pecover
Radioactive Materials Transport Division
Department for Transport
Tel: 020 7944 5775
Email: christopher.pecover@dft.gsi.gov.uk

Powers to provide Road Safety Grant to local authorities

This provision will directly benefit local authorities in England and Wales by giving them greater scope for road safety initiatives, tailored to address specific local circumstances. Indirectly it has the potential, depending on who the scheme is aimed at, to improve road safety for pedestrians, children, disadvantaged groups, motorists etc.

The Government has been able to fund local authority road safety schemes before, but the channels through which this has been achieved have not been ideal. For example, the Special Grant procedure is cumbersome and better suited to one off expenditure, whilst the available Local Government legislation is very broad and may have limitations compared to a tailored power. This new approach, which is used in Scotland has a number of benefits, it provides for:

- Unrestricted scope for road safety projects
- Greater certainty to local authorities; and
- Improved administrative arrangements

There is no new money attached to the proposal, it is simply a more efficient and effective way of using existing resources.

This provision does not require further examination as there is no perceived impact on business, charities, voluntary organisations. Neither will the proposals result in an extra burden on the Public Sector. A public services threshold test has also been carried out and this indicates there is no need for a RIA to be produced.

Contact:

David Padfield
Road Safety Division
Department for Transport
Tel: 020 7944 2057
Email: david.padfield@dft.gsi.gov.uk

Vehicles modified to run on fuel stored under pressure

Title of proposal

Vehicles modified to run on fuel stored under pressure - In order to improve safety and ensure environmental performance of vehicles that have been altered or modified to use a fuel different to that used at first registration (by amendments to The Road Traffic Act 1988 and The Vehicle Excise and Registration Act 1994) we are proposing to introduce a post registration inspection of vehicles converted to use fuel stored under pressure.

Purpose and intended effect of the measure

Issue

The converting of motor vehicles to run on fuel stored under pressure is often carried out after the vehicle has been registered and entered service. This means that there is no check of the conversion to ensure that it is safe for the owner and other road users. There is a superficial check carried out at the MOT, but if a newly registered vehicle is converted this could be up to 3 years after the vehicle has been first used.

Although current evidence is almost entirely related to LPG conversions, in principle, conversions to use other fuels could also create safety related problems.

Vehicle construction is a reserved matter but Northern Ireland has its own construction regulations so this measure will be effective in GB, but not UK.

Objective:

To grant specific powers to the Secretary of State to make regulations:

- To require certification of a vehicle that it complies with Regulations after it has been converted to use an alternative fuel.
- To require the authorised inspector of a conversion to notify the Secretary of State of the fact that the vehicle had been converted to use an alternative fuel.

Persons converting such a vehicle will need an approval before the vehicle can be used on the road.

Background

LPG has been in use in this country for over twenty years but in relatively low numbers. The use of LPG as a road fuel particularly, in private cars and light goods vehicles, is now growing rapidly with most of these vehicles being aftermarket conversions. In addition to LPG the use of natural gas has found its place as a road fuel particularly with larger goods and public service vehicles but also with some cars and light goods vehicles. It is anticipated that ethanol, methanol, hydrogen, and possibly other fuels, will come into use in the foreseeable future.

Although LPG in particular has been in use for over 20 years the numbers of vehicles using LPG was very small. Even by 1990 the numbers of gas powered vehicles was only about 2,000 but this had risen to 15,000 by 2000. It is projected that in 2010 this will have reached 100,000 vehicles and will continue to grow²³.

Standards exist for vehicles using LPG and CNG and these are found in Road Vehicles (Construction and Use) Regulations 1986 (as amended) and the Motor Vehicles (Authorisation of Special Types) (General Order) 2003 respectively. There are also standards for the components used in LPG and CNG systems in UNECE Regulation 67 and UNECE Regulation 110 respectively. There are no standards for the fitting of conversion kits or components.

The installation of gas systems in domestic premises is regulated and for a person to fit domestic gas appliances they must be registered as a CORGI²⁴ gas fitter. There are no restrictions on who may install gas systems on vehicles (except for some hire caravans, which are covered by the CORGI system).

Industry has some degree of self-regulation but it is not universally accepted and only represents a minority of converters. This system, useful though it is, lacks the ability to effectively deal with those that might transgress.

The significant rise in numbers of converted vehicles and the lack of effective any quality control regime on the installers translates into an increasing risk that there could be a major incident, with the possibility of loss of life or serious injury. As well as the obvious physical risks associated with an inadequate conversion there are also environmental concerns that the vehicle will not achieve the expected improvement in emissions levels and may, in some cases, make the emissions worse.

The industry has its own trade associations who promote good practice indeed one of these publishes its own codes of practice. However consultation with Industry exposed a split on the need for regulation with some championing regulation and others apparently wishing to retain the status quo.

Risk Assessment

There have been a handful of cases recently where vehicles which have been converted to run on LPG have caught fire or exploded as a result of a poor installation - these represent a serious safety risk.

²³ Source LP Gas Association

²⁴ Confederation of Registered Gas Installers

Furthermore, whilst there is no quantifiable information available, it is widely acknowledged that improperly converted vehicles may not deliver the anticipated environmental benefits in reduced emissions and in some instances may have emissions worse than equivalent petrol or diesel fuelled vehicles.

Options

Option 1 - Create powers to require the owner or converter of a vehicle to submit the vehicle for inspection. Failure to comply would be an offence. Require the authorised inspector to notify the Secretary of State of changes or alterations.

Option 2 - Do nothing and allow the present situation to continue.

Benefits

Option 1

Economic

The certification process would provide assurance to both buyers and sellers of vehicles that the vehicle is satisfactory.

Social & Environmental

The measure will improve safety and environmental performance of vehicles that are modified, converted or have their use changed.

Option 2

Economic

This option does not have any direct monetary cost and would not increase the regulation of industry.

Social & Environmental

No discernible social or environmental benefits have been identified with this option.

Issues of Equity or fairness

Option 1 - The measure would reduce the scope for vehicle users and converters from circumventing approval requirements. These approval requirements are designed either for the safe operation of vehicles and minimising of the impact of vehicles on the environment.

Option 2 - Allows substandard, and possibly dangerous, conversions to be offered to the consumer who has no easy way of judging what they are getting. In 1997 the LPG Association (LPGA) introduced a revised Code of Practice but in response to consultation LPGA, admitting that their code only influenced 20% of the installations, asked for formal control over conversions.

Compliance Cost for Business, Charities and Voluntary Organisations

Business sectors affected

The business sector affected is companies who carry out LPG conversions.

It is estimated that there are 400 professional converters with an unknown number of private conversions. Of the 400, approximately 80 converters have 75% of the business.

There will be no particular effects on Charities and Voluntary Organisations.

Compliance Costs for a "typical" business

There should not be any "engineering" costs involved, unless there is a need to redesign sub-standard installations. There will be the costs involved in setting up a system to record the details of vehicles

converted. There will also be the cost of the inspections. It has been estimated that the total cost will be approximately £60 per conversion, or £0.9 million per annum for the whole industry based on a figure of 15,000 conversions. This figure has been estimated on a system of private companies being authorised by the Vehicle & Operator Service Agency (VOSA) to inspect each conversion (similar to the current MOT scheme for annual inspection for cars) and is based on experience gained with the LPG code plus the need for a database and possible cost for approval of designated approvers.

Other Costs

There will be initial set up costs for any scheme. However, at the current time these are difficult to estimate since the scheme will be subject to further consultation. It is possible that the scheme may have similarities with the Single Vehicle Approval (SVA) scheme for cars which was established with set up costs of £4.8million and employed over 70 people. But it is expected that the alternative fuel scheme would be significantly smaller and simpler than the SVA scheme, and therefore we anticipate that the costs would be a small fraction of the SVA cost and commitment, perhaps within the range of £0.3 - £1million, but this is a tentative figure, and the final scheme would as already mentioned be subject to consultation.

The approval and checking regime will also add to VOSA's workload. However, the intention would be that the scheme is self-financing so it should not eat into the core duties of VOSA. VOSA would be expected to recover the costs above through fees and are part of the inspection fee element of the cost shown above.

Small Business Litmus Test

We predict that all the post registration converters will be small businesses. However, since most of the cost is in the inspection, the total cost will therefore be closely related to the number of conversions each company carries out.

Enforcement, sanctions monitoring and review

Enforcement at the roadside will be simplified, as at the moment it requires a full inspection of the conversion to check if it is safe. It is likely that the enforcement would be the responsibility of VOSA, DVLA and the police.

The minimum monitoring could occur at the first periodic inspection. Current roadside inspection could include a check on the existence of the certificate.

It would be proposed that the penalty should be a fine set at Level 3 (£1,000).

Consultation

Consultation in 1997 showed that there was much interest in such a scheme. The powers being proposed in the Road Safety Bill are enabling powers, further public consultation and development of the RIA will take place prior to the introduction of any regulations under those proposed powers.

Summary and Recommendations

To introduce the requirement for vehicles converted to use an alternative fuel to be subjected to an inspection before they are used on a public road.

To make changes to the Road Traffic Act 1988 and the Vehicle Excise and Registration Act 1994 to allow this to happen.

Contact point

Geoff Harvey
Transport Technology and Standards
Department for Transport
2/03 Great Minster House
London SW1P 4DR

Tel +44 (0)20 7944 8045
Fax +44 (0)20 7944 2196
Email: Geoff.harvey@dft.gsi.gov.uk

Definition of a London Private Hire Vehicle

Policy objectives and the issue.

Issue

Private hire vehicles (PHVs) in London are in the process of being licensed under the Private Hire Vehicles (London) Act 1998 (the 1998 Act) by Transport for London (TfL). The Public Carriage Office (PCO, part of TfL) carry out the licensing function. PHV operator licensing was introduced in 2001, PHV driver licensing in 2003 and PHV vehicle licensing in 2004. Implementation will be completed in April 2006.

A significant problem has arisen as a result of the definition of "private hire vehicle" in the Act which states that a PHV must be available to the public. Some PHV operators who provide their services on a contract basis to local authorities, schools, hospitals etc have argued that they are not making their services available to the public at large and therefore their vehicles do not fall within the definition of "private hire vehicle" in the 1998 Act and, as such, the whole operation does not require licensing. There is also a possibility that a firm could offer its services only to one section of the public, eg children, and by so doing fall outside the scope of the licensing regime.

TfL have reluctantly accepted that those PHV operators and PHV drivers who do not make their services available to the public at large are exempt from licensing.

Accordingly, this definition does create a considerable problem in terms of exempting certain operators from the requirement to be licensed. The definition of "private hire vehicle" in the legislation governing England and Wales outside London (the Local Government (Miscellaneous Provisions) Act 1976) does not include the word "public". Indeed, the contract exemption provided for in the provincial legislation was deliberately left out of the London legislation on the basis that it had, over the years, become open to abuse, by allowing dubious operators to provide a service outside the licensing system.

Objective

The objective of licensing London's minicabs is to create a safer PHV trade for passengers in London; a regulatory approach could be used to bring within the licensing regime those drivers and operators currently avoiding legislation on the basis that they are not providing a service to the public at large.

The measure is likely to be well-received with opposition confined to those who currently benefit from the perceived loophole by providing a service without holding the relevant licences. The Licensing Authority, TfL, has asked us to rectify the problem; the GMB (representing some PHV drivers in London) has also urged the Government to act; the main trade body for London PHVs, the Licensed Private Hire Car Association, is pressing for a legislative solution; the London licensed taxi trade have accepted private hire licensing and so would welcome any measure to clamp down on those now endeavouring to evade the licensing system; and consumer groups would also welcome the measure. It would seem that failure to implement the measure would be the more controversial approach.

Risk Assessment

The practical effect of the definition of PHV on the travelling public is that PHV drivers and vehicles could be unlicensed and therefore unsafe and a potential danger (just what the 1998 Act was meant to stop). Under the 1998 Act, PHV operators and PHV drivers must be assessed as "fit and proper"; drivers undergo enhanced criminal record checks as well as medical checks and, in future, they will have to demonstrate their knowledge of the local area. Vehicles are licensed every year and have to undergo two MoTs per year; their owners must demonstrate that the vehicles are properly insured and

all licensed operators, drivers and vehicles are subject to compliance checks through the currency of their licences.

We have been alerted to actual cases where PHV drivers and vehicles which Parliament clearly believed should be licensed have managed to evade the licensing system on the basis that they are providing a service to an identified company or body rather than to the public as a whole. The GMB issued a press notice to highlight the problem in February; they referred to a case where PCO inspectors discovered seven minicab drivers transferring patients to and from St Thomas' Hospital without being licensed.

Our information from TfL is that some 850 drivers and 55 operators are avoiding licensing by using this loophole. They say that the majority of these - some 80 - 90% - provide transport services on a contract basis for local authorities - mainly carrying school children with special needs. The remainder provide services to commercial businesses. They stressed that this should not be regarded as a problem which involved just "rogue" operators; rather, a number of quite legitimate companies were operating without licences because they genuinely considered that the legislation was not intended to cover them. In fact, during consultation, some of the unlicensed operators voiced the opinion that they provided a legitimate and high-quality service.

The consultation responses suggested that vulnerable people were being disproportionately affected by the perceived loophole - school children, hospital patients and elderly people. These people had a limited choice in how they travelled and they, or their carers, might reasonably assume that, because of the licensing regime provided for under the 1998 Act, which was introduced with much publicity, the services they were using were in fact licensed.

Where transport contracts are arranged for the carriage of vulnerable people (eg for elderly or disabled people, or for children) it is possible for the body arranging the contract (probably the local education or health authority) to get criminal record information about any driver who will be used on that contract. The onus for checking normally lies with the contracting body. Consultation has, however, raised doubts as to the efficacy of such checks; one response referred to the fact that un-vetted replacement drivers could be used if the vetted driver was unavailable and another criticised the fact that in some cases it was the companies themselves (with a vested interest in signing up as many drivers as possible) who sourced the criminal record checks rather than the licensing authority.

It has not been possible to establish the precise nature of the non-public sector use of the perceived loophole which the Licensing Authority considered to be in the region of 10-20% of overall use of the loophole. Consultation responses made passing references to the possibility that people using unlicensed services arranged by hotels or nightclubs might be at risk - perhaps females, relying on minicabs to get home late at night; perhaps tourists who are not familiar with getting around London. The licensing authority indicated that a number of licensed operators had a "sub-branch" which carried out dedicated contract work using unlicensed drivers; they also mentioned the use of unlicensed operators and drivers in connection with film production and music companies. Use is also made of unlicensed operators and drivers by businesses who want to ensure that a transport service for staff is always readily available; a contract with an unlicensed operator and drivers who have not been vetted might pose a risk for those companies' employees; one consultation respondent provided a contract service to commercial businesses which he regarded as "executive hire" rather than conventional minicabbing. It is unlikely that criminal record checks would have been made on the unlicensed drivers who provide a service to commercial organisations.

Options

We have considered the following options:

- Option 1: Do nothing - accept that the definition in the 1998 Act is adequate;
- Option 2: Encourage all drivers and operators to acquire the necessary licences;
- Option 3: Amend the legislation using Regulatory Reform Order procedure; and

- Option 4: Amend legislation using conventional Bill procedure.

Option 1: Do nothing - accept that definition in the 1998 Act is adequate.

Pros - the Government would not have to use valuable Departmental resources and scarce Parliamentary time in pursuing the issue. Some of the contracts involved - particularly those for local authorities - would require criminal record checks on the PHV drivers undertaken by the body responsible for awarding the contract.

Cons - If Central Government took no action at all, the risks identified above would remain; vulnerable people would continue to use PHVs without the confidence and assurances associated with a licensing system. Doubts were expressed in the consultation exercise about the extent to which local authority checks, rather than PCO licensing, provided a satisfactory level of safety. It would take only one unfortunate incident with tragic consequences to highlight the importance of the quality and safety checks for PHV operators, PHV drivers and vehicles undertaken by the Licensing Authority.

Option 2: Encourage all drivers and operators to acquire the relevant licences.

Pros - as with option (i) above, this would save on Departmental and Parliamentary time and resources. The Department could explain to those PHV operators and PHV drivers currently avoiding the licensing system that it could in fact be beneficial to them to acquire the relevant licences; they would be able to offer their services to a wider range of people, and people would have greater confidence in the service they provide. Moreover, the users of unlicensed services might think twice about continuing to make use of unlicensed PHV drivers and PHV operators if the Government were to make a pronouncement about them.

Cons - This sort of voluntary approach would really only appeal to those PHV drivers and PHV operators who would be willing to participate in the licensing system; it would do nothing to check the activities of the rogue PHV operators who know that they would fail the suitability assessment so the risks identified would remain. Consultation responses generally expressed serious doubts about this option; some believed that even if it were possible to secure voluntary agreement with operators, over time, with changes in personnel and pressure on costs, many would be most likely to revert to unlicensed operations.

Option 3: Amend the legislation using Regulatory Reform Order procedure

Cons - this would not be possible on the basis that it will not be removing any burden; on the contrary it would be imposing the burden of a licensing regime on those PHV operators who are currently avoiding the PHV licensing system on the basis that they are not providing services to the public.

Option 4: Amend the legislation using primary legislation

Pros - Amending the definition of "private hire vehicle" in the 1998 Act would require just a single clause in a transport-related Bill. It would remove any doubt about whether the PHV operators and PHV drivers currently avoiding licensing were doing so lawfully or unlawfully.

Cons - It might prove problematic finding a suitable Bill; in order to act swiftly, it would be necessary to tack this measure onto a Bill whose primary objective does not relate to PHVs. This approach might give rise to problems relating to scope but not to the extent of ruling out the proposal. There might be some opposition from unlicensed operators wanting to continue taking advantage of the perceived loophole.

Business Sectors Affected

The sector which would be most affected by regulation would be that part of the London minicab trade which is currently avoiding the PHV licensing system; they would have to acquire the relevant licences.

The licensed London PHV trade would be positively affected in terms of creating a level playing field for the whole trade.

The organisations which currently make use of the services of unlicensed PHV drivers and PHV operators would be affected to the extent that they might have to pay more for the service. They would, however, benefit from higher quality and safety standards.

Benefits

Economic

The do-nothing and voluntary options would benefit the unlicensed PHV operators currently taking advantage of the perceived loophole to the extent that they would not have to pay the cost of licence fees or meet the quality standards set by the PCO.

The option to amend the legislation would have economic benefits for licensed PHV operators to the extent that they would be competing on a more level playing field with currently unlicensed operators.

Environmental

There are no discernible environmental effects associated with these options.

Social

The option to amend the legislation would produce social benefits to the extent that some of the more vulnerable members of society (children with special needs, disabled people and elderly people) would feel safer; these passengers would have the reassurance of knowing that the transport services they were using had been licensed by the PCO according to specified and transparent standards. Failing to take a regulatory route would leave vulnerable passengers exposed to risks, bearing in mind that doubts have been expressed about the thoroughness of checks on drivers carrying out local authority contract work.

Costs

Economic

The cost impact of amending the legislation would be greatest on those PHV drivers and PHV operators who are currently unlicensed and would need to acquire the relevant licences. The majority of individuals taking advantage of the loophole are drivers who, in order to work lawfully if the law were to be changed, would need to be licensed as PHV drivers and have their vehicles licensed as well. In the light of advice from the PCO, we have estimated that some 850 drivers will need to acquire a PHV driver licence and a vehicle licence. A much smaller number of individuals taking advantage of the loophole fall into the category of PHV operators ie. they actually arrange hirings either on an ad hoc basis or in accordance with a contract. In order to continue operating lawfully were the law to be changed, we assume that some 55 individuals will need to acquire PHV operator licences (the PCO has accepted that 4 operators are formally exempt from licensing on the basis of the current definition of "private hire vehicle" and they were aware of about 50 others).

We also assume that a small proportion of the PHV driver licence applications (along with the accompanying vehicle licence applications) and the PHV operator licence applications will be refused; it is reasonable to assume that some of the PHV drivers and PHV operators currently evading the licensing system may be doing so on the basis that they are unlikely to meet the fit and proper criteria.

A rough estimate of the initial cost to the trade in amending the law could be quantified as follows:

	Assumed number	Cost per item	Cost overall
Driver licence applications	850	£157.00	£133,450

Road Safety Bill Regulatory Impact Assessment (RIA)

Vehicle licence applications	850	£75.00	£63,750
Small operator licence applications	25	£637.00	£15,925
Standard operator licence applications	30	£637.00	£19,110
Grant of driver licence (3 yrs)	800	£105	£84,000
Grant of vehicle licence (1 yr)	800	£25	£20,000
Grant of small operator licence (5 yrs)	20	£500	£10,000
Grant of standard operator licence (5 yrs)	25	£1510	£37,750
			£383,985

This figure reflects the initial cost of entering the PHV trade legitimately; there would be on-going costs in terms of renewing licences (annually for vehicles, three yearly for PHV drivers and five yearly for PHV operators).

The unlicensed operators who responded to the consultation exercise expressed the view that legislating to bring them within the licensing regime would generate redundancies, particularly amongst the casual drivers (housewives, retired people) who typically drive twice a day to deliver and collect school children and who would not earn enough to warrant the payment of licence fees.

There might be a slight knock-on effect for those passengers or local authorities who currently use unlicensed PHV drivers; if the drivers have to pay for licensing their charges might be higher, but the introduction of the wider licensing system suggested that increases in fares to off-set licence fees was not a major concern. However, bodies such as health authorities would be relieved of the burden of carrying out criminal record checks - to the extent that they actually do so.

Environmental

There are no discernible environmental effects for any of the options.

Social

The consultation responses pointed to the valuable role played by "casual" but legitimate drivers in fulfilling local authority contracts, eg housewives and retired people who typically worked for a couple of hours a day to deliver and collect school children in return for a modest, but nonetheless important, sum. If such drivers were to be brought within the licensing regime, it was clear from consultation that many of these drivers would not see it as worthwhile acquiring the relevant licences. In addition to the economic cost of losing such drivers, it could be argued that they provide an important social role eg the continuity of an identified driver for each pupil which a commercial operator might not be able to arrange.

Equity and fairness

The proposal to amend the legislation would produce a more level playing field for those PHV drivers and PHV operators who have acquired the relevant licences yet feel aggrieved that others have managed to evade the licensing system. Consultation responses from licensed PHV representative

bodies criticised the fact that some licensed operators are losing out on tenders because they are competing against unlicensed operators whose costs - in terms of licence fees and meeting PCO quality standards - are lower. The non-regulatory options would be unlikely to address this inequity; if operators can afford lower tenders because they are not paying licence fees then it is unlikely that they would voluntarily increase their own costs by entering the regulatory regime when there is no compulsion on them to do so.

Potential unintended consequences

The proposal to amend the legislation would be likely to result in the loss of casual drivers who fulfil an important role in delivering and collecting school children. The PCO consultation response indicated a willingness to consider how such drivers could be accommodated within the licensing system.

Distributional impacts

If the legislation were to be amended as proposed, the local authority contract work currently being undertaken by unlicensed operators and drivers could more readily be distributed amongst all PHV operators in London. At present licensed operators are deterred from tendering for local authority contract work and one London Borough consultation response feared a situation where only unlicensed firms tendered for their work.

Competition Assessment

It was argued in a number of consultation responses that fair competition is simply not possible whilst unlicensed operators are working alongside licensed operators in London. Licensed PHV representative organisations spoke of their members losing out on contract work to unlicensed operators who could undercut because of lower costs (eg licence fees). Failing to legislate would mean that these concerns over fair competition would remain.

On the other hand, the unlicensed operators took the view that they were not actually competing with licensed PHV operators; they did not provide a conventional minicab service and they were not advertising their services to the public in the way that licensed PHV operators were doing. They feared that legislating to bring them within the licensing regime would undermine their competitiveness by foisting additional and unnecessary costs on them.

Consultation

A consultation document, proposing an amendment to the legislation (option 4) was sent to 69 consultees; a total of 24 responses were received, of which 18 supported the proposal and 6 opposed it.

Opposition to the proposal came mainly from unlicensed companies providing contract services to local authorities. They argued that:

- the drivers underwent criminal record checks in order to work on the contracts;
- the services they provided were "specialist" in nature, requiring specialist vehicles;
- the work allowed them to utilise the services of housewives and retired people to drive just a couple of hours a day;
- many of the part-time drivers would leave rather than acquire licences;
- the work they undertook did not sit sensibly with the requirements of the PHV licensing system, eg why should a driver have to know his way around the whole of London when he drove, say, one pre-determined route every day for the whole school year; and
- they would suffer financially if they had to acquire licences .

In short, they regarded the service they provided as high quality, specialist and safe and queried how standards could be improved or enhanced by being brought within the licensing system.

A suggestion was made for a special exemption licensing system for drivers engaged solely on local authority contract work; the company in question thought that such drivers could register as "local authority drivers", so that they were accounted for within the regulatory regime, whilst being exempt from the actual licensing.

Responses in support of the proposal were made by key national and London taxi/PHV stakeholders, including TfL, the London PHV trade bodies and the GMB. There were three main grounds for the arguments against contract exemptions:

Parliament clearly intended to establish a comprehensive licensing system for all PHV services;

with regard to local authority contract work, safety cannot always be assured in the way passengers might think, eg one response referred to the fact that un-vetted replacement drivers could be used if the vetted driver was unavailable and another criticised the fact that in some cases it was the companies themselves (with a vested interest in signing up drivers) who sourced the criminal record checks rather than the local authority; and the commercial advantage that unlicensed firms had over licensed companies who paid their licence fees and maintained the standards set by the licensing authority was unfair.

Compliance and review

TfL are responsible for the PHV licensing system in London; if this proposal were to be taken forward, they would be responsible for ensuring that PHV operators and PHV drivers complied with the new requirement. A special review would not be necessary, rather it would be a matter for TfL to prosecute any PHV drivers or PHV operators who were not complying with the new requirement.

Summary and Recommendation

In the interests of safety and safe competition, the most appropriate course of action to deal with the perceived loophole in the Private Hire Vehicles (London) Act 1998 is to amend the definition of "private hire vehicle" so that all operators and drivers currently working outside the licensing regime will be brought within it. This was the Government's intention at the time of the Bill's passage through Parliament and we are not persuaded by arguments which seek to perpetuate a situation whereby unlicensed operators who provide much the same type of work as licensed operators are allowed to remain unlicensed. Clearly there will be costs involved in bringing unlicensed operators and drivers within the regulatory regime, but we are satisfied that the benefits in terms of increased safety and better competition outweigh these costs.

Contact Point

Rupert Cope
Buses and Taxis Division
Department for Transport
020 7944 2291
Email: Rupert.cope@dft.gsi.gov.uk

Overall Summary & Recommendation

In 2000 the Government published its road safety strategy which established casualty reduction targets to be achieved by 2010.

In 2003 the overall number of people killed and seriously injured on Britain's roads was 22% lower than the 1994-1998 baseline average (on which our targets are based). However, whilst we are making progress there remain issues of concern, for example, estimated numbers of drink driving related accidents and casualties have increased and in 2002 (13,150) were the highest for 10 years. Furthermore, in recent years there has been a levelling off in the number of road accident fatalities, and in 2003 for instance the number of fatalities was 2% higher than in 2002. Left unchecked issues like these threaten to jeopardise the advances made so far.

This Bill therefore contains a range of measures that will address these issues and contribute towards an improvement in road safety, and further the achievement of the government's long term casualty reduction targets. Not to legislate as set out in the Bill will delay achievement of key areas and therefore impact upon casualty reductions.

Ministerial Declaration

I have read the regulatory impact assessments and I am satisfied that the benefits justify the costs.

A handwritten signature in black ink, appearing to read 'David Jamieson', with a long horizontal flourish extending to the right.

Signed

Date: 25 November 2004

David Jamieson MP, Parliamentary Under Secretary of State, Department for Transport