



Department for

Infrastructure

An Roinn

Bonneagair

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Consultation on the Implementation of European Directive 2014/45/EU in respect of vehicle testing legislation

**Synopsis of Consultation Responses
20 November 2017**

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1. Introduction

- 1.1 The purpose of the consultation was to gather views on the proposed implementation of Directive 2014/45/EU in Northern Ireland.
- 1.2 The Directive requires Member States to make a number of changes to the way they conduct periodic roadworthiness testing. The changes include the introduction of new testable items for all types of tests, and a new requirement to have certain specific types of tractors used for commercial road haulage to be subjected to a goods vehicle periodic roadworthiness test.

2. Background

- 2.1 Since the mid-nineteen nineties, the standards to which vehicles are tested to ascertain whether or not they are roadworthy, and the way in which the tests should be carried out, have been set out in European Directives. The most recent Directive determining the test standards which must be applied is 2014/45/EU. All Member States are required to comply with the Directive by implementing suitable national legislation – this will include the United Kingdom until the Brexit process completes. Failure to implement the Directive could result in an infraction process, resulting in fines being levied on the UK.
- 2.2 The Directive makes a number of detailed changes to the way in which testing is conducted. The most noticeable will be a new requirement to include reverse lights, front fog lights and daytime running lamps, where fitted, in all periodic tests (including the ‘MOT’ test)
- 2.3 Another important change is a new requirement that large, road-going agricultural tractors which are used for commercial haulage must have a goods vehicle certificate. This will not affect agricultural tractors used primarily for agriculture. In Northern Ireland, the Driver and Vehicle Agency has for some time been offering a goods vehicle test for such commercial haulage tractors, so no change to the existing testing system is required.

- 2.4 Bringing our domestic regulations up to date with those in place across other European Member States will help reduce the risk of the formation of any barrier to the use of Northern Ireland vehicles across Europe post-Brexit.
- 2.5 Although the Department would normally evaluate a range of policy options before moving to consultation and implementation, in this instance the changes are technical and specific, with no scope for alternative approaches in the content, and little room for manoeuvre in respect of how the changes are implemented. For this reason, the consultation only provided detail of the proposed content of the Regulations, and sought views on how they might be best implemented, and any impacts which might be experienced by stakeholders.

3. Consultation responses

- 3.1 The consultation ran from 7 September 2017 to 2 November 2017 and was published on the DfI website. A copy of the consultation document was sent to over 100 identified stakeholders and Section 75 groups.
- 3.2 Six responses were received.

Respondents
Freight Transport Association
Ulster Farmer's Union
MG Owners Club Northern Ireland
Institute for Consultations
Mr Trevor Baird (MotorcycleMinds.org)
Mr Mark Henderson

- 3.3 Mr Mark Henderson, Mr Trevor Baird and the MG Owners Club all focussed on the absence from the consultation of provisions implementing a "vehicles of historic interest" scheme, as is currently being introduced into England, Scotland and Wales. All three correspondents asked why this was not included in our current proposed changes to the law.

- 3.4 Each of the correspondents was contacted, and informed that the Department had opted to concentrate on the inescapable requirements of Directive 2014/45/EU, in order to ensure that the necessary deadlines were met. However, subject to the agreement of an incoming Minister, the Department is likely to introduce a similar scheme to the GB historic vehicles scheme, and intends to bring forward a public consultation as soon as is practicable to begin that process. All three correspondents were content with this response.
- 3.5 The Institute for Consultations made the point that issuing a consultation where there was little or no scope for changing the detailed technical requirements seemed less than useful. In its response it stated that “the relevance and salience of some public consultations deriving from an EU Directive can often be perceived as tokenistic.” Contact was made with the Institute and a brief dialogue took place wherein the background for the consultation was discussed.
- 3.6 The Freight Transport Association provided a detailed response. Generally, it was supportive of the proposals. However, it felt that the removal of exemptions on some engineering plant should have been subject to an impact assessment.
- 3.8 The Ulster Farmers Union was critical of the proposals and was concerned at the impact on its members, especially where they might have to travel some distance to their nearest test centre. It was also concerned that a full impact assessment had not been carried out. However, this latter concern arose from an erroneous understanding that all agricultural tractors were to be required to undergo periodic testing regardless of their use, which is not the case.

4. Departmental response to consultation responses

- 6.1 The Department was grateful for all responses, as they will help inform and shape policy. This was made clear to all who responded during follow-up communication.

- 6.2 Leaving aside queries around the timing of the Vehicles of Historic Interest scheme, the only concerns identified during the consultation process lay around the effectiveness of consultation where inescapable EU requirements are being implemented (Institute for Consultation) and the need for impact assessments on the removal of some exemptions from testing (FTA) and the testing of all agricultural tractors (UFU).

Effectiveness of consultations where EC requirements are being implemented

- 6.3 Whilst appreciating the thrust of the Institute for Consultation's response, the Department feels that it is always important to consult with stakeholders, even in instances where the scope for flexibility in how such proposals are to implemented is restricted. Exposing the policy to stakeholders can often bring out issues which have not yet been identified, or areas where the implementation of the fixed requirements can be 'tweaked' in the interests of smoother process and more effective legislation.
- 6.4 Consultations are also valuable in that they serve to open a dialogue between the policy makers and interested stakeholders, which can be continued and developed through to eventual legislative change. This can only serve to enrich and improve the process for both the policy makers and the industries / groups affected by such proposals.

Assessment of impact of removal of certain exemptions from testing for engineering plant etc.

- 6.5 During the preparation of this policy, the possible impact on local industry of the removal of exemptions from testing for certain types of breakdown vehicles, mobile cranes, engineering plant etc. was evaluated. For any given company operating such vehicles, the impact will be the cost of the test, and the cost of any time and resource involved in getting the vehicle to and from the test centre. Against this the Department balanced the need to ensure a basic level of roadworthiness for all road users in Northern Ireland, and the fact that the Directive prescribes that all vehicles constructed on N2 or N3 chassis must be tested.

6.6 It was considered that a full impact assessment would be of very limited value, because:

(a) the Department is legally obliged to implement the Directive, and

(b) In the interests of vehicle safety it was felt that there was no identifiable need for the vehicles in question to remain exempt from periodic testing. This was supported by the fact that purpose built mobile machinery (including purpose built cranes, i.e. those not just constructed onto a lorry chassis) would continue to be exempt, as would showman's vehicles.

Assessment of impact of requiring testing for fast tractors used for commercial purposes.

6.8 The Ulster Farmers Union was concerned that no impact assessment had been carried out on the mandatory testing of certain types of fast tractors, used for commercial haulage.

6.9 Although the concerns arose mainly from confusion around the actual intentions of the proposed regulatory changes, its response prompted a review of the decision not to carry out an impact assessment. In doing so, four factors were identified as crucial.

(a) The Department (through the Driver and Vehicle Agency) already offers goods vehicle tests to those agricultural type tractors being used for commercial haulage. According to DVA, around 10 or 12 such vehicles are tested annually.

(b) Only tractors capable of 40 km/h, used outside of a 15 mile radius of their base, and not being used for agricultural, horticultural or forestry operations will need to have a valid test certificate. All other agricultural tractors will remain exempt from testing. It is therefore considered unlikely that there will be a large increase in numbers from the present limited number of tests applied for.

(c) The introduction of vehicle testing for in-scope tractors has been welcomed by the Freight Transport Association, which said that the measure would introduce parity between commercial hauliers and those using vehicles which are currently exempt from periodic testing to carry commercial loads.

(d) The requirement to test in-scope tractors is a requirement of the European Union and as such, the Department is obliged to implement it, while the UK remains a Member State.

6.14 On balance, and taking the above points into account, it was felt that the results of a full impact assessment would not justify the resource allocation required to complete it.

5. Way Forward

7.1 In light of the small number of responses and the generally limited impacts on the private, public and voluntary sectors, it has been decided to progress the legislation as planned.

7.2 The Department will bring forward draft legislation to amend the six relevant Statutory Rules in good time to have the amendments operative by early May 2018.

7.3 In the current absence of the Executive and the Northern Ireland Assembly, it is not possible to forecast precisely when each stage of the legislative process will occur. However, the Department aims to have the six amendments effected by 16 April 2018.

7.4 The Department's Driver and Vehicle Agency will develop and implement specific training and systems changes to enable the amendments to be incorporated into the vehicle testing system once the legislative provisions become operative.