

Bill Research Paper /08

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THE GOODS VEHICLES (LICENSING OF OPERATORS) BILL

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The Goods Vehicles (Licensing of Operators) Bill is intended to address regulatory imbalances within the industry and between GB and NI, illegal operations, poor safety and maintenance standards and enforcement issues.

This paper provides information on: the bill context; its overview; issues to be addressed; its purpose and key features; policy options and consultations undertaken; costs of the bill; and its impact on external relations.

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SUMMARY OF KEY POINTS

The Department of the Environment is the primary department responsible for regulation of freight operators.

Impetus for change comes from the freight industry, public representatives and consumer organisations.

Regulation in GB and NI has evolved considerably in the last 30 years, but NI still falls behind that of GB.

The Bill is intended to replicate provisions in GB, with some local variations, by addressing issues including:

- The partial regulation of freight operators;
- Enforcement;
- Organised crime;
- Road safety;
- Environmental standards.

The Department has formally consulted on 2 occasions, with largely positive results, but some concerns relating to increased operators' costs, constraints on competition and the need for enforcement.

The proposed system is intended to run on a full cost recovery basis.

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1. BILL CONTEXT

1.1 The Department of the Environment in NI (via the Driver and Vehicle Agency) is responsible for:

- Licensing of operators, drivers and vehicles that carry other people's goods for reward, under the Transport Act (NI) 1967.
- Determining the roadworthiness of vehicles.
- Checking the repute of drivers.
- Enforcing freight regulation, together with the PSNI¹.

1.2 The impetus for change comes from the freight industry, public representatives and consumer organisations, dissatisfied with the way in which freight services are delivered presently. Specific concerns relate to:

- Burden of regulation falling on only 1 part of the industry ('own account' operators are not currently required to be licensed).
- Extent of illegal operations.
- Poor standards of vehicle maintenance.
- Need for more and better enforcement².

1.3 Licensing requirements in GB have evolved considerably since the 1960s:

- Initially, objectives were concerned with mechanical aspects linked principally to road safety, minimum standards of financial capability, business competence and repute, and the interests of established legitimate operators.
- In the 1970s, restrictions on drivers' hours and tachograph monitoring were introduced, and minimum standards of business competence, financial standing and repute were enhanced and made more uniform throughout the EU.
- In the 1980s, concerns turned to environmental issues, and the Armitage Report³ of 1980 highlighted the environmental threat posed by HGVs in GB.

1.4 Licensing requirements in NI have also evolved considerably since the 1960s, but to a lesser extent than in GB:

- Initially, similar concerns to those in GB resulted in the Transport Act (NI) 1967, but its provisions were limited to those involved in commercial haulage and passenger transport, and did not cover those hauling their own goods; at the very outset, therefore, a significant part of the road freight industry lay outside the scope of operator licensing legislation in NI, and still does.

¹ DOE: *Road Freight Licensing of Operators Bill: Policy Memorandum*

² DOE: *Road Freight Licensing of Operators Bill: Policy Memorandum*

³ Report of the Inquiry into Lorries, People and the Environment, A Armitage, HMSO 1980

- In the 1970s, the EC issued directives, applied in NI as well as GB, which standardised licensing of those involved in the commercial haulage of goods.
- In the 1980s, the Armitage Report did not cover NI, so there are no explicitly environmental provisions in NI legislation or practice to date.

2. BILL OVERVIEW⁴

2.1 The Bill (of 61 clauses and 6 schedules⁵) proposes to have primary powers needed to deal with all matters relating to the regulation of road freight operators in NI.

2.2 The Bill covers:

- The requirement to hold an operators' licence.
- The application and determination process.
- The ability to apply conditions to, and vary, a licence.
- Powers for the revocation, suspension and curtailment of licences.

2.3 The Bill provides for:

- The regulation of operating centres.
- The review of decisions, including appeals, enforcement and penalties.

3. ISSUES INTENDED TO BE ADDRESSED BY THE BILL

The Bill is intended to address⁶:

- Partial regulation of freight operators. 'Own account' operators⁷ are not required to be licensed, and industry representatives believe that the hire and reward sector is being treated unfairly, as they must bear the cost of licensing in NI. In GB, all operators must be licensed.
- Enforcement. NI has much weaker freight licensing enforcement powers than GB, and only 1 sector of the industry is regulated. Statutory agencies have complained about the standards of NI vehicles crossing to GB, and illegal operators⁸ are a major threat to safety and environmental standards within the road haulage industry.
- Organised crime. The aims of the Organised Crime Task Force would likely be supported by stronger and more comprehensive regulation of the road

⁴ DOE: *Goods Vehicles (Licensing of Operators) Bill: Explanatory and Financial Memorandum*

⁵ The Explanatory and Financial Memorandum provides commentary on individual clauses

⁶ DOE: *Goods Vehicles (Licensing of Operators) Bill: Explanatory and Financial Memorandum*

⁷ Operators who carry their own goods in the course of their business or trade

⁸ Operators who might, for example, avoid checks and controls, fail to keep their vehicles in a fit and serviceable condition, forge licensing documents, overload, speed, contravene parking restrictions or fail to insure vehicles

freight industry, and it has taken a keen interest in the review of licensing in NI.

- Road safety. Goods vehicles make a significant contribution to the number of people killed or seriously injured in NI. HGVs represent 2.6% of the overall total number of motor vehicles licensed in NI in 2006, but HGV drivers in 2006 were responsible for 2.7% of fatal collisions (3) and 3.1% of serious collisions (28), resulting in 2.4% of road deaths (3) and 3% of serious injuries (36)⁹. Positive changes would be a welcome contribution to reduction in fatalities and casualties. Illegal operators are believed to undercut the legitimate operators, and threaten the viability of the industry while contributing to the poor road safety record.
- Environmental standards. Present licensing arrangements offer no effective safeguards against operators who pay no attention to the environmental standards of their operating centre, such as: the suitability of an operating centre on environmental grounds; the attachment of conditions to a licence to prevent or minimise any adverse effects on using a place as an operating centre; the effect on environmental conditions in a locality of the use of the use as an operating centre. This has the potential to affect a considerable number of NI households.

4. PURPOSE AND KEY FEATURES OF THE BILL

4.1 The aims¹⁰ of the Bill are to:

- Have, in one dedicated statute, the primary powers needed to deal with all matters relating to the regulation of road freight operators in NI.
- Bring the NI system into line with the system currently in place in GB (with some local variations¹¹).

4.2 The Bill may largely replicate the GB Goods Vehicles (Licensing of Operators) Bill 1995¹².

4.3 It is proposed that the Bill will replace existing provisions contained in the Transport Act (NI) relating to:

- Licensing of road freight operators.
- Licensing of road freight vehicles.
- Enforcement.

4.4 It is proposed that the Bill will introduce new powers relating to:

- 'Own account' operators.

⁹ Sources: PSNI Central Statistics Unit and NI Transport Statistics 2006-2007.

¹⁰ DOE: *Goods Vehicles (Licensing of Operators) Bill: Explanatory and Financial Memorandum*

¹¹ For example, NI has insufficient volume or market size to justify a traffic commissioner for freight alone (DOE: *Road Freight Licensing of Operators Bill: Policy Memorandum*)

¹² http://www.opsi.gov.uk/acts/acts1995/Ukpga_19950023_en_1

- Application of environmental conditions to operating centres.
- Continuous licensing.
- Publication of notices of application for a licence.
- Maintenance undertakings.
- New disciplinary procedures and appeals.
- Impounding.

5. POLICY OPTIONS AND CONSULTATIONS PRIOR TO THE BILL

5.1 The Department considered 3 policy options¹³ for the Bill:

- Option 1: 'do nothing' (rejected as the DOE 1991 review and 1998/2003 consultations all supported alignment with the GB system).
- Option 2: replicate the GB provisions (rejected as consultations revealed a perceived need for some local variation).
- Option 3: replicate the GB provisions with local variations (adopted as it aligns powers in NI with those currently available in GB, but gives some scope for slight local variations).

5.2 The Department has formally consulted on reform of the road freight operator licensing system on 2 occasions¹⁴:

- 1998, after representations from industry associations, a consultation paper on proposals to bring the NI system into line with GB was issued to over 2000 consultees, of whom 34 responded, and most of those supported the proposals.
- 2003, after the previous review was not taken forward, a revised and updated consultation was issued to a wide range of bodies, of which 19 responded, mostly positively, with concerns relating to increased costs for operators, constraints on competition and the need for actual enforcement.

5.3 The Department recently invited some 15000 operators to a series of industry briefings¹⁵, supported by the Road Haulage Association and the Freight Transport Association, on the proposals for operator licensing. More than 1800 people attended, representing c12% of the industry. Presentations were well-received, the general response was positive, and issues expected to cause the industry concern did not appear to do so. Most queries related to individual circumstances (maintenance, operating centres, costs, enforcement and other issues) and NI

¹³ DOE: *Goods Vehicles (Licensing of Operators) Bill: Explanatory and Financial Memorandum*

¹⁴ DOE: *Goods Vehicles (Licensing of Operators) Bill: Explanatory and Financial Memorandum*

¹⁵ DOE: *Report on the Briefings given by DOE to the Freight Industry, February-March 2008*

exemptions (which will be specified by the department prior to enactment of the new regulations, and subject to committee scrutiny in draft form¹⁶).

6. COSTS OF THE BILL

6.1 Enacting this enabling legislation will have no financial implications for public sector expenditure. While resources are required to enact the subsequent subordinate legislation programme, to introduce new administrative and IT systems, the new licensing system is expected to run on a full cost recovery basis, including recouping these initial set-up costs¹⁷.

6.2 Business cases and full Regulatory Impact Assessments will be developed in tandem with the subordinate legislation to inform future funding bids¹⁸.

6.3 In the Road Freight Review Consultation, the department gave an undertaking that fees in NI would initially be at the same levels as fees in GB. The fee structure in GB is currently under review, and changes are expected there. Fees in RoI are currently much lower than GB or NI, having been unchanged since 1994; the RoI Department of transport will review fee structures and levels in the near future, and have indicated a significant rise in fee levels within the next 12 months¹⁹.

7. NORTH-SOUTH AND EAST-WEST RELATIONS AND COOPERATION

7.1 North-South, there will be improvements in enforcement cooperation²⁰, but there are no plans to coordinate equivalent legislation between NI and RoI²¹.

7.2 East-West, there will be positive impact in terms of:

- Consistency of approach and improvements in road safety and industry regulation.
- Improvements in enforcement cooperation²².

¹⁶ Letter: DOE LO to Environment Committee Clerk dated 26 February 2008

¹⁷ DOE: *Goods Vehicles (Licensing of Operators) Bill: Explanatory and Financial Memorandum*

¹⁸ DOE: *Road Freight Licensing of Operators Bill: Policy Memorandum*

¹⁹ Letter: DOE LO to Environment Committee Clerk dated 4 February 2008

²⁰ DOE: *Road Freight Licensing of Operators Bill: Policy Memorandum*

²¹ Letter: DOE LO to Environment Committee Clerk dated 16 April 2008

²² DOE: *Road Freight Licensing of Operators Bill: Policy Memorandum*