



Driving  
Standards  
Agency

## Consultation Document

### Possible Changes to the Scope of Exemptions to Driver Certificate of Professional Competence

**Response from:**

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## Response to Driving Standards Agency

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### Executive Summary

The BVRLA welcomes the opportunity to comment on the proposals from the Driving Standards Agency (DSA) to make limited changes to the UK regulations implementing Directive 2003/59/EC, which is about the initial qualification and periodic training of drivers of certain road vehicles for the carriage of goods or passengers.

We recognise and welcome that this is a limited opportunity to make the following changes:

- Proposal 1: exempt drivers of a vehicle that is being driven with the permission of the vehicle operator or lessor (as appropriate) and where the following four additional conditions are also met:
  - within 50 kilometres of the driver's base;
  - no goods or passengers are carried;
  - the vehicle is not being used for 'hire or reward'; and
  - driving such vehicles is not the driver's principal activity.
- Proposal 2: exempt vehicles attending a VOSA test centre (including VOSA authorised testing facilities).

We note that the European Commission's legislative intention was to ensure that all professional drivers, whose primary role is to move goods or passengers, were required to undergo a minimum level of training.

However, a vehicle rental company's primary business is not the transportation of goods or passengers, but they do require some of their employees, from time to time, to drive commercial vehicles over 3.5 tonnes and minibuses between rental sites, deliver/collect the vehicle and take them for repair/maintenance or testing, whilst empty. In other words, the rental company employee's primary role may not be to move vehicles, but may, for example, be to valet rental vehicles.

It is on this basis that we believe the Driver Certificate of Professional Competence (Driver CPC) requirements will impose disproportionate costs upon our members and their employees, who will often be driving an in scope vehicle unladen for short and infrequent periods and importantly where such movements would be deemed to be incidental to their primary job duties.



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Interestingly, we are also aware that in other Members States, such as France and Holland, there is no legal requirement for rental company delivery / collection drivers to hold a CPC. In such circumstances, the French authorities regard the CPC as being a requirement purely for professional drivers and not for movements undertaken by a rental company, as the driving is regarded as being incidental to the employment.

### **BVRLA Members**

Our rental members and their employees, within the course of their business, would only need to drive their own goods vehicles and minibuses on an infrequent basis. As we explained, such movements would only relate to taking the vehicle for an annual test, movements between branches and delivering/collecting vehicles.

We therefore maintain that, for a rental company employee, the activity of driving does not form part of their **primary** purpose of their employment and would be deemed as being incidental to their employment. Driving is only likely to occur as a consequence or in connection to their employment, individuals are **not** employed as professional drivers, but for another primary employment reason.

Following on from previous discussions with the agency, we understand it holds the view that if driving is 'essential' as part of the job role then a CPC would be required. We respectfully disagree with this view. It seems to be not of any direct consequence whether the driving is essential to the employment; especially as the Directive states that the activity of driving during the course of an individual's employment would be exempt "...provided that driving the vehicle is not the driver's principal activity". In other words, the primary reason of employment is not to drive a vehicle, but could be a duty which is required to be undertaken as part of the terms of employment.

This would be similar to a builder who for example is required to drive himself and colleagues to a site, it may be essential for him to drive the vehicle as this is a requirement of the terms of the employment, this would not automatically mean that the driving is no longer incidental, especially as this is not his principal activity.

The recitals of the Directive make it clear that the European Parliament intended that only 'professional' drivers involved in the carriage of goods or passengers should be subject to the requirements of a CPC. Indeed, unlike a teacher or builder, our members employees who are carrying out incidental driving, will be doing so **without** carrying goods or passengers.

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Furthermore recital 22 of the Directive states “...it is desirable, in order to respect the principles of Community law, that drivers of vehicles used to carry out transport where this is considered to have a lesser impact on road safety or where the requirements of this Directive would impose a disproportionate economic or social burden, should be exempted from the application of this Directive”. Thus, we would assert that by requiring our Members’ employees whose principal activity is not driving would in fact create a disproportionate burden on them.

We therefore encourage the agency to take forward these amendments to ensure that it does not adopt an approach which is contrary to the primary aims of the Directive.

### Specific Comments

We wholeheartedly support the proposals to widen the scope of the Driver CPC exemptions to include vehicle movements which are relatively short distances without passengers or goods, not operating for hire or reward and driven as an incidental part of the driver’s job. We note that the proposed exemption would be for a person who is permitted by the vehicle operator to drive the relevant vehicle within 50 kilometres of the driver’s base.

If this exemption is implemented as written there would be a reduced benefit for our members, as the feedback we have received indicates that 50 kilometres will not encompass all the deliveries and collections that our members have to make. The general view is that around 80/85% of all deliveries and collections would be encompassed in the exemption as written but there would still be some customers whose requirements would not be met.

This will therefore mean that our members will still need to put either a percentage or all of their employees through a Driver CPC. The alternatives to this would be:

- Rental and leasing companies stop offering delivery and collection services for their customers
- Rental companies stop offering minibuses for rental therefore reducing availability of minibuses for customers and inevitably pushing up prices.

It is also worthy of note that the large proportion of customers renting minibuses are schools, charities and Government departments.



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We would propose that the 50 kilometres is increased to **75** kilometres as this would help to ensure the small volume of delivery and collection carried out by our members, and notably SME members, falls into scope of the proposed changes – we believe this would offer a fair and reasonable restriction and would encompass the vast majority of our members' vehicle movements.

### **Cost savings**

If the exemption remained at 50 kilometres the benefits for our members will be reduced by 50% to £8 million per year as our members would still need to train ½ of the 500,000 drivers in our industry to comply.

If the exemption is increased to 75 kilometres then our original cost savings of around £16 million per year would be achieved.

### **Implementation**

We recognise that due to the tight timescales it is likely that if a decision is made to introduce this new exemption it probably will not be in place for the September deadline for minibuss drivers to be compliant with the legislation.

If this is the case we would require some form of written assurance that enforcement action will not be taken against members or their employees for not holding a Driver CPC. This will be vital to ensure that members can still operate their businesses safe in the knowledge that they will not be subject to enforcement action.

### **Closing Comments**

We welcome the opportunity to continue our constructive dialogue and are more than happy to provide any further information that is required to help support this change in the exemptions from the requirement for a Driver CPC.

### **Leasing Members**

In general, vehicle leasing is an arrangement where the user simply hires the use of the vehicle and assumes operational responsibility for a predetermined period and mileage at fixed monthly rental from the owner (the leasing company). Legal ownership is, in the majority of cases, retained by the leasing company.



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### **Short Term Rental Members**

Rental Members offer hourly, daily, weekly and monthly rental of vehicles to corporate customers and consumers. As explained above, rental members are the owners of the vehicle.



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**Bona-fides** **BVRLA, the industry and its members**

- The BVRLA is the trade body for companies engaged in the leasing and rental of cars and commercial vehicles. Its members provide rental, leasing and fleet management services to corporate users and consumers. They operate a combined fleet of 2.75 million cars, vans and trucks, buying nearly half of all new vehicles sold in the UK.
- Through its members and their customers, the BVRLA represents the interests of more than two million business car drivers and the millions of people who use a rental vehicle each year. As well as lobbying the Government on key issues affecting the sector, the BVRLA regulates the industry through a mandatory code of conduct.  
[www.bvrla.co.uk](http://www.bvrla.co.uk)