

## Further consideration of Derogations from Regulation (EC) 561/2006

Briefing Paper

February 2<sup>nd</sup>, 2010

### **Background**

Regulation (EC) 561/2006 refers to the harmonisation of certain social legislation relating to road transport. It amends Council Regulations (EEC) No 3821/98 and repeals Council Regulation (EEC) No 3820/85. The Regulation entered into force on 11 April 2007<sup>i</sup>.

### **Exemptions and Derogations**

The legislation provides a list of vehicles which are exempt under the legislation. There is also a list of derogations that Member States can exclude from the rules within their own territories.

In order to provide clarity on these and what they mean in practice, descriptions of the old exemptions *vis à vis* the new exemptions and the old derogations *vis à vis* the new derogations are listed in Appendix 1<sup>ii</sup>.

### **Comparable derogations in other regions that matches the needs of the bakers.**

Further research has not uncovered any additional examples of derogations that have been granted by other European countries.

### **Comment on meeting with Linwoods and Irwins**

The last paragraph of the notes of the meeting with Linwoods and Irwins indicate that the DoE has already referred this matter to the Department for Transport (DFT) for consideration. Given the notes also indicate that there is uncertainty about the content of the case presented by the DoE the Committee may wish to consider requesting a copy of this document to inform the bakers of the details of the case.

Furthermore the Committee may wish to consider requesting the bakers to submit a cogent and detailed case stating what their actual needs are, why there should be derogations for drivers employed by NI bakers, and what this derogation should actually entail.

This would assist in consideration of the strength of the case already submitted by the DoE.

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<sup>i</sup> With the exception of articles 10(5), 26(3) and (4) and 7 which entered into force on 1 May 2006

<sup>ii</sup> Taken from Drivers' Hours and Tachograph Rules for Road Passenger Vehicles Northern Ireland and Europe. Driver Vehicle Testing Agency. Drivers Hours Guide PSV

## Appendix 1

### EXEMPTIONS

The following table shows the old exemptions in the left hand column, comparing them to those which came into force on 11 April 2007 in the right hand column.

<b>Old Exemptions</b>	<b>New Exemptions</b>
Vehicles used for the carriage of goods where the maximum permissible weight of the vehicle, including any trailer or semi-trailer, does not exceed 3.5 tonnes.	Although this exemption has been removed, the Regulation applies its scope to vehicles over 3.5 tonnes only.
Vehicles used for the carriage of Passengers with no more than 9 seats, including the driver's seat.	Although this exemption has been removed, the Regulation only applies its scope to vehicles with more than 9 seats (including the driver's seat).
Vehicles used for the carriage of Passengers on regular services with a route that does not exceed 50 km.	No change.
Vehicles not capable of exceeding 30 kmh.	Vehicles not capable of exceeding 40 kmh.
Vehicles used by or under the control of the armed services, civil defence, fire services, and forces responsible for maintaining order.	Vehicles owned or hired without a driver by the armed services, civil defence services, fire services, and forces responsible for maintaining public order when the carriage is undertaken as a consequence of the tasks assigned to these services and is under their control.
Vehicles used in emergencies or rescue operations.	Vehicles, including vehicles used in the non-commercial transport of humanitarian aid, used in the emergencies or rescue operations.
Specialised vehicles used for medial purposes.	No change.
Specialised breakdown vehicles.	Specialised breakdown vehicles operating within a 100km radius of their base.
Vehicles undergoing road tests for technical development, repair or maintenance purposes, and new or rebuilt vehicles which have not yet been put into service.	No change.

<b>Old Exemptions</b>	<b>New Exemptions</b>
Vehicles used for the non-commercial carriage of goods and personal use.	Vehicles or combination of vehicles with a maximum permissible mass not exceeding 7.5 tonnes used for the non-commercial carriage of goods.
Vehicles used in connection with sewerage, flood protection, water, gas and electricity maintenance services, highway maintenance and control, household refuse collection and disposal, telegraph and telephone services, radio and television broadcasting, and the detection of radio or television transmitters or receivers.	This has been changed to a national derogation.
Vehicles Transporting Circus and Funfair equipment.	This has been changed to a national derogation.
Vehicles used for milk collection from farms and the return to farms of milk containers or milk products intended for animal feed.	This has been changed to a national derogation.
New exemption	<p>Commercial vehicles, which have historic status according to the legislation of the member state in which they're driven and which are used for the non-commercial carriage of goods for personal use.</p> <p>Historic Status Definition:</p> <p>A vehicle which by virtue of its construction and equipment is suitable for carrying passengers or goods and which was manufactured more than 25 years before the date in which it is being driven.</p>

## Derogations

Old Derogation Exemptions	New Derogation Exemptions
<p>Vehicles used for carrying passengers, which by virtue of their construction and equipment are suitable for carrying not more than 17 persons, including the driver, and are intended for that purpose.</p>	<p>Vehicles with between 10 and 17 seats used exclusively for the non-commercial carriage of passengers.</p>
<p>1. Vehicles used by a health and social services board to provide ambulance services for old persons and services for persons to whom welfare arrangements for physically and mentally handicapped persons apply; or to carry staff, patients, medical supplies or.</p>	<p>Vehicles used by a health and social services body to provide ambulance services for the conveyance of persons suffering from illness expectant or nursing mothers or other persons for whom such transport is reasonably required; or to carry staff, patients, medical supplies, equipment, organs, or blood; also to provide services for old persons to whom welfare arrangements for physically and mentally handicapped persons apply.</p>
<p>2. Vehicles used by Her Majesty's coastguard or a general lighthouse authority.</p>	<p>Vehicles used by Her Majesty's Coastguard, a general lighthouse authority, or a local lighthouse authority.</p>
<p>3. Vehicles used by a harbour authority within the limits of a harbour for the improvement, maintenance or management for which the authority is responsible.</p>	<p>Vehicles owned or hired without a driver by public authorities to which do not complete with private transport undertakings.</p>
<p>4. Vehicles used by an Airport's Authority within the perimeter of an airport, owned or managed by the authority.</p>	
<p>5. Vehicles operated by Northern Ireland Railways Company Ltd for the purpose of maintaining railways.</p>	<p>Vehicles used for the purpose of maintaining railways by the northern Ireland Transport Holding Company</p>
<p>6. Vehicle used by the Department of Agriculture for the purpose of maintaining navigable waterways.</p>	<p>Vehicles used by Waterways Ireland within the jurisdiction of Northern Ireland for the purpose of maintaining navigable waterways</p>
<p>Vehicles used by agricultural, horticultural, forestry or fishery undertakings for carrying goods within a 50 kilometre radius the place where the vehicle is normally based, including</p>	<p>Vehicles used or hired, without a driver, by agricultural, horticultural, forestry, farming or fishery undertakings for carrying goods as part of their own entrepreneurial activity within a</p>

Old Derogation Exemptions	New Derogation Exemptions
local administrative areas, the centres of which are situated within that radius.	radius of up to 100 km from the base of the undertaking.
Tractors used exclusively for agricultural and forestry work.	Agricultural tractors and forestry tractors used for agricultural or forestry activities, within a radius of up to 100 km from the base of the undertaking which owns, hires or leases the vehicle.
Vehicles being used to carry animal waste or carcasses which are not intended for human consumption	No change
Vehicles which are used to carry live animals between a farm and a local market or from a market to a local slaughterhouse.	Vehicles which are used to carry live animals between a farm and a local market and vice versa or from a market to a local slaughterhouse within a radius of up to 50 kms.
Vehicles used as shops at local markets for door-to-door selling, or used for mobile banking, exchange or saving transactions, for worship, for the lending of books, records or cassettes, or cultural events or exhibits, and specially fitted for such uses.	Specially fitted mobile project vehicles, the primary purpose of which is use as an educational facility when stationary.
Vehicles which have a permissible maximum weight of less than 7.5 tonnes for carrying material or equipment for the drivers use in the course of his work within a 50 km radius of the place where the vehicle is normally bases provided that driving the vehicle does not constitute the drivers main activity etc.	<p>Vehicles or combination of vehicles with a maximum permissible mass not exceeding 7.5 tonnes used by:</p> <ul style="list-style-type: none"> <li>• universal service providers as defined in Art2(13) of 97/67 on common laws for the development of the internal market of community postal services and the improvement of quality service to deliver items as part of the universal service;</li> <li>• or for carrying materials, equipment or machinery for the drivers use in the course of his work.</li> </ul>
NOTE: the reference to 7.5 tonnes did not appear in 3820/85 but was adopted as a rule in the UK.	

Old Derogation Exemptions	New Derogation Exemptions
	Within a 50 km radius of the base of the undertaking and on condition that driving the vehicles does not constitute the driver's main activity.
Vehicles operating exclusively on islands not exceeding 2,300 square kilometres in area which are not linked to the rest of the national territory by a bridge, ford or tunnel open for use by motor vehicles.	Derogation is unchanged.
Vehicles used for the carriage of goods which has a permissible maximum weight not exceeding 3.5 tonnes and is propelled by means of gas produced on the vehicle or by means of electricity.	Vehicles used for the carriage of goods within a 50 kms radius from the base of the undertaking and propelled by means of natural or liquefied gas or electricity, the maximum permissible mass of which, including the mass of a trailer or semi-trailer or semi-trailer, does not exceed 7.5 tonnes.
Vehicles used for driving instruction and examination with a view to obtaining a driving licence.	Vehicles used for driving instruction and examination with a view to obtaining a driving licence or a certificate of professional competence, provided that they are not being used for the commercial carriage of goods or passengers.
<p>The Regulations permit, after authorisation from the European Commission, Member States to exempt transport operations carried out in exceptional circumstances. In the UK this covers:</p> <ul style="list-style-type: none"> <li>• vehicles which are being used by the National Lifeboat Institution;</li> </ul>	<p>The new regulations also permit exemptions in exceptional circumstances after authorisation from the European commission.</p> <ul style="list-style-type: none"> <li>• vehicles which are being used by the National Lifeboat Institution; for the purposes of hauling lifeboats.</li> </ul>
Vehicles used in connection with the sewage, flood protection, water, gas and electricity	Vehicles used in connection with sewerage, flood protection, water, gas and electricity

Old Derogation Exemptions	New Derogation Exemptions
<p>services, highway maintenance and control, refuse collection and disposal, telegraph and telephone services, carriage of postal articles, radio and television broadcasting and the detection of radio or television transmitters or receivers.</p>	<p>maintenance services, road maintenance and control, door-to-door household refuse collection and disposal, telegraph and telephone services, radio and television broadcasting, and the detection of radio or television transmitters or receivers.</p>
<p>(Was an exemption in 3820/85 and is now a National derogation)</p>	<p>Note: carriage of postal articles has been deleted.</p>
<p>Vehicles transporting circus and fun-fair equipment. (Was an exemption in 3820/85 and is now a National derogation)</p>	<p>Specialised vehicles transporting circus and funfair equipment.</p>
<p>Vehicles used for milk collection from farms and the return to farms of milk containers or milk products intended for animal feed. (Was an exemption in 3820/85 and is now a National derogation)</p>	<p>Vehicles used for milk collection from farms and the return of farms of milk containers or milk products intended for animal fee.</p>
<p>No specific exemption currently exists.</p>	<p>Vehicles used exclusively on roads inside hub facilities such as ports, interports, and railway terminals</p>