



Department for

Infrastructure

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Consultation on minibus driving licence requirements

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Foreword

In Northern Ireland, the Department for Infrastructure is responsible for safe and sustainable travel, a key element of the Programme for Government. An important part of this remit is ensuring that drivers are correctly licensed and qualified in line with legislative requirements

In this regard, the Motor Vehicles (Driver Licences) (NI) Regulations 1996 sets out the requirements to be met by drivers while the Drivers (Certificates of Professional Competence) Regulations 2007 set out the qualification requirements for drivers. The interactions between these pieces of legislation, and indeed the wider body of legislation relating to passenger transport, can be complex.

In that context, it has become increasingly clear that our existing body of guidance on this area is not sustainable and has caused some confusion as to the requirements it places on operators and drivers.

In light of this, the Department has taken forward work to develop revised guidance on the existing legislation in this area. The revised guidance, which is attached to this consultation document, has been developed in consultation with key stakeholders.

While this consultation does not propose nor set out any changes to the existing body of legislation and policy in relation to driver licensing, the revised guidance does update the Department's interpretation of the legislation. This will impact on a number of individuals and sectors and therefore an overview of those impacts is included in this consultation document.

In particular, the revised guidance will affect paid drivers who will no longer be able to drive a minibus on a D1(nfhr) licence and will require a full minibus driving licence and Drivers Certificate of Professional Competence (DCPC). Some "volunteers" will also be affected as the guidance indicates that anyone who drives as a consequence of their employment should hold a full minibus licence and DCPC.

This consultation, therefore, is intended to seek your views on the Department's interpretation of the legislation and whether the revised guidance provided is clear, easily understood and covers all the circumstances in which minibuses are driven. We will pay close attention to any comments received during the consultation and will consider whether changes to the draft guidance are needed. The final guidance will of course need to align with the law and we will consider comments received on that basis.

The objective is to have the revised guidance in place by 1 January 2018. The Department recognises that this is a complex area and there are concerns as to the impact of these changes on a number of sectors and has taken steps to increase the availability of tests for drivers who are affected. The Department can confirm that it intends to put the revised guidance to an incoming Minister provided one is in place by that time.

Peter May
Permanent Secretary
Department for Infrastructure

22 September 2017

1. Introduction

- 1.1 The purpose of this consultation is to seek your views on the document *DfI Guidance on Driving Requirements for Minibuses* which is attached at Annex One.
- 1.2 The guidance document sets out the driving licence and qualification requirements for minibus driving. This is a complex area and the document seeks to deal with the circumstances in which a minibus is likely to be driven.
- 1.3 The guidance is intended to make the minibus driving licence requirements more easily understood and to allow drivers to make informed decisions about their obligations before they drive.
- 1.4 This consultation is one of a package, the other consultation document entitled *Consultation on the use of section 10B permits for road passenger transport in Northern Ireland* deals with proposed changes to the section 10B permit system.
- 1.5 The Department would value your consideration of the document and would welcome your views on whether it meets the Department's objective of providing clarity for minibus drivers.
- 1.6 The Department and the former Department of the Environment has carried out significant pre consultation with public authorities, the voluntary and community sectors and representative organisations. The Department has undertaken an EQIA screening assessment which has shown no significant impact on any section 75 group. Some sectors have already taken action to ensure that they are compliant with the legislation.
- 1.7 The consultation closes on 17 November 2017.

Who should read this document?

1.8 The consultation is primarily aimed at:

- Drivers – particularly those who drive minibuses
- s10B permit holders
- Applicants or potential applicants for s10B permits
- Other community transport stakeholders who may rely on services provided by s10B permit-holders (including local councils, sports clubs and other recreational associations, health trusts, universities, schools and other educational or charitable bodies);
- Any company who provides minibus transport to their employees
- Their respective representative organisations.
- Licensed bus operators

1.9 However, we welcome responses from any individual or group with an interest.

2. Overview of existing legislation and the licensing requirements this places on those driving or operating a minibus

2.1 Driver licensing and training requirements, including for those seeking to drive or operate a minibus, are enshrined in legislation with strict rules concerning their application. That legislation, which aims to promote safety, professionalism and fair competition, largely derives from EU law.

Motor Vehicles (Driving Licences) Regulations (NI) 1996

2.2 The Motor Vehicles (Driving Licences) Regulations (NI) 1996 (the 1996 Regulations) give effect to EU Directives and set out the licensing requirements for driving certain categories of vehicle and trailers. They include the testing requirements.

2.3 The 1996 Regulations removed the automatic entitlement to drive light goods vehicles and minibuses on obtaining a car licence (known as a Category B licence) post 1996. To obtain these entitlements the requisite driving tests must be passed.

2.4 Notwithstanding this, the 1996 Regulations did however provide for those who passed their test prior to 1 January 1997 to retain the entitlement to drive these vehicles on a restricted basis (known as a Category D1(nfhr)¹ licence) and allowed for the driving of a minibus on only a voluntary basis using a car licence .

2.5 The 1996 Regulations also provided for those who passed their category B (car) test after 1 January 1997 to drive a minibus on a voluntary basis where they meet the following conditions:

- age over 21 and have held a car licence for at least 2 years

¹ Not For Hire or Reward

- the minibus is used by a non-commercial body for social purposes
- no payment is received other than out of pocket expenses
- the minibus maximum weight is not more than 3.5 tonnes (4.25 tonnes if including any specialist equipment to carry disabled passengers)
- they do not tow a trailer.

2.6 In effect the 1996 Regulations require that anyone who is paid to drive, including those who drive as part of their employment, or drive a bus where payment is made for the carriage of passengers must have a full D1 licence.

Vehicle Drivers (Certificates of Professional Competence) Regulations 2007

2.7 In addition, EU Directive 2003/59, as implemented by the Vehicle Drivers (Certificate of Professional Competence) Regulations 2007 (the 2007 Regulations), requires that all professional bus, coach and lorry drivers should hold a Driver Certificate of Professional Competence (DCPC) in addition to their driving licence.

2.8 The 2007 Regulations came into force across all European Union member states on 10 September 2008 for bus and coach drivers. As a consequence, drivers must have a DCPC to work professionally unless they fall into one of the exempt categories. Drivers of vehicles used for the non-commercial carriage of passengers, for personal use or driver training vehicles are exempt from holding a DCPC.

Buses (Section 10B Permits) Regulations (Northern Ireland) 1997

2.9 Confusion as to the requirements placed on those driving a minibus has largely resulted from the Buses (Section 10B Permits) Regulations (Northern Ireland) 1994. This regulation specifically allows drivers who hold a car driving licence (Category B) issued before 1 January 1997 to be paid to drive a minibus operated under the 10B permit scheme.

2.10 In reviewing the legislative framework, the Department has been advised that this derogation is in contravention of the requirements set out in the 1994 and 1996 Regulations. As a result, the derogation has no effect under the legislative framework and can no longer be legally applied. Therefore, all paid drivers require a full category D (all buses) or D1 (minibuses) driving licence and must hold a DCPC qualification. “Paid driver” means any driver who receives anything other than out of pocket expenses.

Conclusion

2.11 Previous guidance had indicated that car licence holders could be paid to drive a minibus if they had passed their driving test prior to 1997 and the organisation held a s10B permit. It also stated that people whose driving was not stipulated in their contract of employment were able to drive a minibus on their car licence. These drivers were also considered to be exempt from the requirement to have obtained a DCPC.

2.12 It has become clear that the Department’s previous interpretation was not sustainable and that under existing legislation those driving a minibus for hire or reward would require a full minibus driving licence and DCPC. While this primarily impacts on paid drivers, some ‘volunteer’ drivers will also be affected as anyone who drives as a consequence of their employment or accepts a payment from passengers should also hold a full minibus licence and DCPC.

3. Impacts

- 3.1 While this consultation document does not deal with changes to policy, legislation or indeed the provision of services, it is clear that the revised guidance has the potential to impact on a number of individuals, groups and sectors. The Department has sought to identify the broad impacts and identify, where appropriate, mitigating measures to minimise the potential for unintended adverse impacts.
- 3.2 In broad terms, two categories of minibus driver are likely to be affected by the change in guidance; drivers who passed their test prior to 1997 and who hold the Category D1(nfhr) and those who passed their test after 1997 and hold a Category B licence. By clarifying the legal requirements for drivers, the revised guidance also has the potential to impact on those who operate or use minibus services. Drivers who volunteer for voluntary organisations and receive no payment except for out of pocket expenses will not be affected by the revised guidance.
- 3.3 There is limited evidence to suggest that the guidance, in clarifying the position and assisting drivers and operators in meeting their legal requirements rather than introducing any new policy, has a significant adverse impact on any s75 group as it applies equally to all drivers. The revised guidance, aims to assist drivers and operators in meeting their legal requirements.

3.4 The training and qualification of drivers involves a number of steps which are set out in the table below.

Key Stages in Obtaining A Full D1 Licence
1. Practical Driving Test
2. Large Vehicle Multiple Choice Test
3. Large Vehicle Hazard Perception Test
4. Driver CPC Practical Test
5. Driver CPC Case Studies
6. Provisional Licence
7. Medical
8. Access NI Check
9. 5 Days Driver Training

4. Responding to the Consultation

- 4.1 This consultation is available on the Department for Infrastructure website at www.infrastructure-ni.gov.uk/consultations
- 4.2 Comments using the Response form available on the weblink above can be sent by email or posted to the address below. Responses should be submitted to arrive no later than **5pm on 17 November 2017**.

Email to: Freightandbuspolicy@infrastructure-ni.gov.uk

By post to:

Freight and Bus Policy Branch
Department for Infrastructure
Room 3.01
Clarence Court
10-18 Adelaide Street
Town Parks
Belfast
BT2 8GB

- 4.3 Please note that all responses will be treated as public, and may be published on the Department for Infrastructure webpage. If you do not want your response to be

used in this way, or if you prefer for it to be used anonymously, please indicate this when responding.

Consultation Questions

- 4.4 While the Department welcomes any views you may wish to share on the revised guidance, to assist in responding, series of questions have been included at Annex Two. For each of the questions, if you have any suggestions for changes or additions to our proposed guidance, please provide as much detail as possible about your suggestions and your reasons for them.

Closing Date

- 4.5 This consultation started on 22 September 2017. The deadline for responding is 17 November 2017.

5. Freedom of Information

- 5.1 Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the Freedom of Information Act 2000 (FOIA) or the Environmental Information Regulations 2004(EIR).
- 5.2 If you want information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.
- 5.3 In view of this it would be helpful if you could explain why you regard the information as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot assure that confidentiality will be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.
- 5.4 The Department will process your personal data in accordance with the Data Protection Act (DPA) and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

6. Next Steps

- 6.1 Once it has considered all of the responses to this consultation, the Department will produce a summary report setting out how it now intends to take the reforms forward. This will be published on the NIdirect website.

ANNEX ONE:

DfI GUIDANCE ON DRIVER LICENSING REQUIREMENTS FOR MINIBUSES

DfI Guidance on Driver Licensing Requirements for Minibuses

Introduction

The Department for Infrastructure (DfI) is responsible for the promotion of improved road safety and the delivery of better regulation of the transport sector. An important part of the Department's road safety remit is to make those people who have responsibility for bus operations (licensed bus operators, permit holders and voluntary users), those hiring minibuses, and driving minibuses in Northern Ireland aware of their responsibilities before taking their minibus on the road.

The legislation surrounding the driving of minibuses has evolved over time and can be difficult to understand as it is a mix of European and national legislation which has been amended and interpreted by courts.

The UK is unique in Europe as the only Member State to allow some categories of driver to drive a minibus without first having passed the appropriate test which qualifies them to drive that vehicle. The derogation from the requirement to hold a full minibus licence can only be availed under specific circumstances which are outlined in the following guidance, this guidance makes reference to:

- those who are paid to drive (whether or not they are full time drivers or casual drivers);
- those who volunteer their services without any payment, and
- those driving in a personal or private capacity (i.e. people who are using the minibus to transport their own family).

The safety of bus passengers and other road users is the paramount reason for the requirement to hold the appropriate bus driving licence. In the interests of road safety the Department would strongly advise those drivers who may not come within the scope of these licensing requirements, to consider undertaking voluntary training to obtain the licence for the driving they carry out.

This guidance explains the law as it is intended to help you comply with it. It is not a full statement of the law, which is set at [legislation]. You should seek independent legal advice on these issues if you have any queries or concerns.

1. Small Buses – those capable of carrying up to 16 passengers (Minibuses)

Your driving licence sets out the categories of vehicles which you are entitled to drive.

	9.	10.	11.	12.
AM		19.01.13	09.04.26	
A1				
A2				
A		19.01.13	09.04.26	79.03
B1		04.03.87	09.04.26	
B		04.03.87	09.04.26	
C1		04.03.87	09.04.26	
C				
D1		04.03.87	09.04.26	79(nfhr)
D				
BE		04.03.87	09.04.26	
C1E		04.03.87	09.04.26	79(<8250kg)
CE				
D1E		04.03.87	09.04.26	79(nfhr)
DE				
fklnpq		04.03.87	09.04.26	118

1. Name 2. First name 3. Date and place of birth
4a. Date of issue 4b. Date of expiry 4c. Issued by
5. Licence number 10. Valid from 11. Valid to 12. Category

In the majority of cases, a minibus driver should hold a **full category D1 licence** and a **driver qualification card (DQC)**. However, there are two exceptions.

Regulation 5(8) of the Motor Vehicles (Driving Licences) Regulations (NI) 1996 provides that a person:

- holding a full category B (car) licence for a period of not less than 2 years;
- who is 21 years of age or over; and
- receives no payment or consideration for so doing other than out of pocket expenses, may drive a minibus.

Under this concession, the driver may only drive on behalf of a non-commercial body, and only when the minibus is being used for social purposes, not for hire or reward. No trailer may be attached. If a driver wishes to drive a minibus outside of this exemption, they require a full category D1 licence and DQC.

This concession is also subject to a 3.5t weight restriction unless the vehicle is fitted with specialised equipment intended for the carriage of disabled passengers in which case, it must not exceed 4.25t.

Drivers who have been issued with a **D1(nfhr) category** on their licence may drive a minibus on behalf of a non commercial body as long as the minibus is being used for social purposes, provided that the minibus is not being used for hire or reward **and** they receive no payment other than out of pocket expenses. There is no requirement to hold a DQC as a volunteer driver for a non commercial body.

2. Drivers who drive buses as an incidental part of their employment

Drivers such as teachers, health workers, and caretakers who drive buses as part of their employment are deemed to be paid drivers. These drivers need a full D1 licence to drive a minibus and also require a DQC.

3. Hiring a minibus

If you wish to hire a minibus you must ensure that you have the correct licence to drive. It is important that if you are considering driving the minibus on your car driving licence that you first check the Gross Vehicle Weight (GVW); the hirer should be able to advise you of this. If the GVW is above 3500kg, then you cannot drive this minibus on your car licence unless it is fitted with a wheel chair lift and that allows an increase to the GVW to 4250kg. The same conditions mentioned in paragraphs 1&2 would also apply.

4. Some definitions

4.1 What is reward?

A bus which is operated for reward is one where payment is made, in cash or kind, for the carrying of passengers, irrespective of the person to whom the payment is made. This includes direct payments such as a fare, or an indirect payment which gives a person an opportunity to travel. It does not matter whether or not the operator is a profit making entity. A bus is used for reward if there is a clear and logical link between payment and the transport provided.

4.2 What are social purposes?

The Department considers social purposes to mean non-commercial activities. Where a bus is operated to provide passenger services for commercial purposes, the driver must hold a full licence and DQC.

4.3 What are out of pocket expenses?

Out of pocket expenses are remuneration for any fuel costs, parking fees, toll fees or similar expenses incurred as part of the trip. The driver should receive no other payment for driving the minibus.

4.4 What is ‘On a voluntary basis’?

If a person’s contract of employment states that driving is a part of their duties, or they are paid whilst driving (other than a sum to reimburse that person for out of pocket expenses on a cost recovery basis), this would be deemed as receiving payment for driving, and would not be driving ‘on a voluntary basis’. In this case a full licence and DQC would be required.

4.5 What does (nfhr) mean on my licence?

This means, not for hire or reward, which generally means that you cannot accept any payment, either in cash or in kind, made by or on behalf of the passengers that gives them the right to be carried in the vehicle.

4.6 What is a driver qualification card (DQC)?

5. Other matters

5.1 Insurance

It is up to drivers to check with their insurer whether their insurance policy covers the vehicle in the circumstances in which it is proposed to be driven. It is also up to drivers (and their employers) to check whether their driving triggers other legal requirements, such as the laws in respect of drivers’ hours, tachographs and DCPC.

5.2 Drivers Certificate of Professional Competence

You must get the Driver Certificate of Professional Competence (CPC) [initial qualification](#) if you're new to professional driving and want to drive a bus or coach. You'll get a [driver qualification card](#) (DQC) when you qualify. You must keep this with you when you're driving professionally and produce it when requested to do so by an enforcement body. You'll need to do 35 hours of [periodic training](#) every 5 years to keep your Driver CPC.

The Driver Certificate of Professional Competence (DCPC) initial qualification has 4 parts:

- part 1 - [theory test](#) (this includes 2 separate tests - multiple-choice and hazard perception)
- part 2 - Driver CPC case studies test (computer-based exercise with 7 studies based on real-life situations - e.g. driving in icy conditions)
- part 3 - [driving ability test](#)
- part 4 - Driver CPC practical demonstration test (this takes 30 minutes - you will need to show you can keep your vehicle safe and secure, e.g. loading your vehicle safely)

You must pass all 4 parts to get your Driver CPC.

Drivers who held a driving licence in category D1 or D (including nfhr) prior to the introduction of Driver CPC can choose to take the part 2 and 4 of the initial qualification process rather than complete the 35 hours periodic training to gain their DQC. However, this route is only available once. If a driver has previously been issued with a DQC this option is not open to them.

Further information on the Drivers Qualification Card may be found here;

[Drivers CPC Guidance](#)

5.3 Driving in another EU Member State

You cannot drive a minibus or bus in another EU member state unless you hold a full category D or D1 entitlement and a DQC card.

There are a number of documents which the driver must take with them when travelling to another EU Member State:

- Own Account Certificate or European Journey Form (Waybill);
- Vehicle Registration Document (V5C) or vehicle on hire certificate;
- Vehicle test certificate;

- Insurance certificate;
- Tachograph records to show the driver's driving time each day; and
- Driving Licence.

Own Account Certificate

The Own Account Certificate is available for international journeys within the EU by organisations which:

- are “non-commercial” and non profit making;
- do not have transport as their main activity, and are
- in a vehicle which they own, or operate full time.

If any of the three conditions listed above are not met then you will require a European Journey Form.

European Journey Form

A European Journey Form gives details of the vehicle, driver(s), dates of the trip and number of passengers, for trips lasting less than 90 days. They are specific to each trip and cover journeys through all EU Member States. The journey form means that the bus is exempt from the operator licensing laws in other EU Member States. The journey form gives details of the number of passengers carried and is completed by the person responsible for the operation of the service. They keep the duplicate copy and must retain it for 12 months. The top copy must be kept by the driver and be available for inspection at any time during the trip. Failure to produce a completed journey form may lead to on the spot fines.

ANNEX TWO:

CONSULTATION QUESTIONS

Name	
Address	
Organisation represented	
Date	
Signature	

Question 1	Do you think that the Department's guidance clarification in respect of minibus driving licence requirements are sufficiently clear? If not, please describe how you think the guidance could be improved.
Answer	

Question 2	Do you think that our guidance clarification in respect of minibus Driver CPC requirements are sufficiently clear? If not, please describe how you think the guidance could be improved.
Answer	

Question 3	Do you have any further examples of a minibus driving activity that you believe we should take into account? If so please describe and explain these.
Answer	

Question 4	Do you agree with our assessment of the impacts? If not, please explain why you do not agree, providing data in support of your explanation.
Answer	

Question 5	Can you provide any additional data which would allow us to make a more detailed assessment of impacts?
Answer	

When responding, please state whether you are an individual or representing the views of an organisation. If responding on behalf of an organisation, please clarify who the organisation represents, and where applicable, how the views of members were assembled.