

HGV MOT Testing Exemptions: A consultation

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Section 1: Foreword

1.1 The purpose of this document is to seek views on the Department's proposals to remove a number of exemptions from the Heavy Goods Vehicle (HGV) roadworthiness testing scheme. The consequence would be that operators of vehicles in currently exempt HGV classes would, in future, be required to have their vehicles tested annually.

1.2 We are proposing to remove the exemptions covering 10 categories of vehicle (detailed in section 4).

1.3 Our initial estimate – based on DVLA licensing statistics – is that up to 40,000 vehicles might fall within the exempt HGV classes we are considering here. If the relevant exemptions were to be removed it would mean that operators of the vehicles concerned would face new burdens in having their vehicles tested. However, our view is that there are several reasons why the removal of those exemptions would nevertheless be beneficial to society as a whole.

1.4 One major reason for reviewing the list of exemptions now is because the number of exempt vehicles is growing. This raises concerns about road safety – and also of fairness, as between operators of vehicles that are currently tested, and operators of vehicles which are currently exempt from testing. We also have a legal obligation to ensure compatibility between the list of exempt vehicle classes and EU law on testing. The former is detailed in Schedule 2 to the Goods Vehicles (Plating and Testing) Regulations 1988 ('the Regulations'); the latter is provided for under Article 4 of Directive 2009/40/EC.

1.5 There are two further categories of effectively exempt 'heavy vehicles' that we are seeking to modify in the context of this review:

- heavy vehicles which benefit from paragraph 44.1.(e) of the Regulations, which exempts from roadworthiness testing vehicles being used under a specific order made under the Road Traffic Act 1988, or under the provision of the Road Vehicles (Authorisation of Special Types) Order 2003. We are proposing to remove exemptions for HGV or HGV-derived vehicles, while leaving in place exemptions for vehicles of genuinely special type; and,
- heavy vehicles that are not caught by the Regulations because they carry fixed equipment rather than goods which can be off-loaded from the vehicle.

Section 2: Executive Summary

- 2.1 Annual roadworthiness testing of HGVs was introduced in Britain in 1968. At that time, a number of categories of vehicle were exempted from testing, primarily because – at that time - they were considered to be non - standard types of vehicle, or vehicles which were limited in number or limited in use on the public road. The exempt classes included electric vehicles, road construction vehicles, breakdown vehicles, vehicles containing engineering plant or health, education or display equipment, and vehicles based in seven Scottish islands (the complete list of exemptions is at **Annex A**).
- 2.2 In addition to certain classes of HGV being exempt from testing, regulation 44 of the Regulations also effectively exempts from testing vehicles which are used in only ‘prescribed special circumstances’. The exemption only applies whilst the vehicle is in use in the prescribed special circumstances. This exemption extends to a range of circumstances – for example, bringing a vehicle to or from an annual roadworthiness test, or taking a vehicle away for scrapping.
- 2.3 A further exemption exists in relation to vehicles – which are essentially heavy goods vehicles – but which have either no or very limited capacity to carry demountable goods. Such vehicles are defined in section 185 of the Road Traffic Act 1988 as either motor tractors or as light or heavy locomotives, depending on their unladen weight. Such vehicles do not currently fall within the scope of the annual testing requirements for HGVs.
- 2.4 EU law on roadworthiness testing is set out in Directive 2009/40/EC. This only allows exemptions from inspection for vehicles owned by the armed forces, police and fire service. However, subject to consulting with the European Commission, the Directive also allows Member States to exempt additional categories of vehicle “which are operated in exceptional conditions and vehicles which are never, or hardly ever, used on public highways, including vehicles of historic interest”.
- 2.5 We need to be sure that the UK exemptions are in line with EU law. We are proposing to remove (and in some cases modify) ten of the exemptions in Schedule 2 to the Regulations.

Section 3: How to Respond

3.1 The consultation period began on **10 December 2009** and will run until **19 March 2010**, please ensure that your response reaches us by that date. If you would like further copies of this consultation document it can be found at www.dft.gov.uk or you can contact Joanne Wake if you would like alternative formats (Braille, audio CD, etc).

3.2 Please send consultation responses to:

Joanne Wake
Department for Transport
Licensing, Roadworthiness & Insurance Division
Vehicle Roadworthiness & Enforcement Branch (LRI 2)
2/09 Great Minster House
76 Marsham Street
London
SW1P 4DR
E-mail to: vehicleroadworthiness@dft.gsi.gov.uk

Tel No: 0207 944 6566
Fax No: 0207 944 6523

3.3 When responding, please state whether you are responding as an individual or representing the views of an organisation. If responding on behalf of a larger organisation please make it clear who the organisation represents, and where applicable, how the views of members were assembled.

3.4 A list of those consulted is detailed in section 9 of this consultation paper. If you have any suggestions of others who may wish to be involved in this process please contact us.

3.5 Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

3.6 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.

- 3.7 In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can 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.
- 3.8 The Department will process your personal data in accordance with the DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

Section 4: The proposals

4.1 We are proposing to remove (and in some cases modify) ten of the exemptions in Schedule 2 to the Regulations. The exemptions are in respect of:

- Mobile cranes.
- Break-down vehicles.
- Engineering plant and plant, not being engineering plant, which is movable plant or equipment being a motor vehicle or trailer (not constructed primarily to carry a load) especially designed and constructed for the special purposes of engineering operations.
- Trailers being drying or mixing plant designed for the production of asphalt or of bituminous or tarmacadam.
- Tower wagons.
- Road Construction Vehicles (though we are not proposing to remove the exemption for road rollers and other specialised equipment used in the road construction process).
- Electrically propelled motor vehicles.
- Vehicles constructed or adapted for, and used primarily for the purpose of, medical, dental, veterinary, health, educational, display, clerical or experimental laboratory services.
- Vehicles having a base or centre in any of the following islands, namely, Arran, Bute, Great Cumbrae, Islay, Mull, Tiree or North Uist from which use of the vehicle on a journey is normally commenced.
- Tractor units pulling exempt trailers.

4.2 We are also proposing to:

- modify the exemption under Regulation 44(1) (e) – so that all ‘HGV-based’ vehicles – except perhaps the very largest will be required to have some form of roadworthiness test/inspection.

- modify the provisions of section 185 of the Road Traffic Act 1988 (and also section 186(3) of the Act) so that motor tractors and heavy and light locomotives are no longer exempt from annual roadworthiness testing in any case where a vehicle is based on an HGV-style chassis and would therefore be regarded as a goods vehicle.

EU law

4.3 The main reason for making these proposals is to ensure that the various categories of exemption in GB law are compatible with EU law. However, there are also several other reasons why all HGV-type vehicles should be tested.

4.4 So far as EU law is concerned, Article 4.1 of Directive 2009/40/EC says that:

‘Member States shall have the right to exclude from the scope of the Directive vehicles belonging to the armed forces, the forces of law and order and the fire service’.

4.5 The Directive also says in Article 4.2 that:

‘Member States may, after consulting the Commission, exclude from the scope of this Directive or subject to special provisions, certain vehicles operated or used in exceptional conditions and vehicles which are never, or hardly ever, used on public highways, including vehicles of historic interest manufactured before 1 January 1960 or which are temporarily withdrawn from circulation.’

4.6 In our view most of the various types of vehicle that are likely currently to be classified by their owners/operators as being included within the exemptions under Schedule 2 to the Regulations are vehicles which are built on a normal HGV chassis and in regular use on the road. We therefore consider that it would unrealistic to argue that any of these exempt types could fall within the scope of exceptions as defined under Article 4 of the Directive.

Other issues

4.7 In any event, given that:

- most of these vehicle types are based on a normal HGV chassis;
- the number of such vehicles is increasing;

- most need to be maintained in exactly the same way as any other type of HGV; and,
- the purpose of testing is to corroborate the fact that essential maintenance is being undertaken;

it would be difficult to substantiate an in-principle argument as to why such vehicles should continue to be exempted from periodical roadworthiness testing. Withdrawing these exemptions would also remove the current unfairness whereby HGVs which are exempt from testing are in some cases in direct competition with vehicles which are not so exempt.

Other categories of exemption

4.8 Very similar considerations apply in respect of the 'use exemption' we are proposing to remove from Regulation 44(1)(e). Also, to the 'out-of-scope' vehicles which are currently classified as locomotives.

Justification

4.9 A more detailed analysis of the case for removing – and modifying – the various exemptions is given in **Annexes B, C and D**.

Section 5: Consultation Questions

5.1 It would be helpful if, when you reply, you could focus your response on the following 5 questions, though we would, of course, also be pleased to consider any other comments that you may wish to make.

Q1: Do you agree that we should remove the exemption from roadworthiness testing for the ten categories of HGV listed in paragraph 3.1 – and, if not, why not?

Q2: Do you consider that any other of the exempt categories of HGV listed in Annex A should be subject to testing in future – and, if so, which ones and why?

Q3: Do you agree that it is necessary to remove the “specific vehicle” exemption in Regulation 44.1 (e) for normal HGV and HGV-derived vehicles – and, if not, why not?

Q4: Do you agree that it is necessary to review the scope of the definitions in section 185 of the Road Traffic Act 1988 so that heavy vehicles with fixed equipment no longer fall outside the definition of vehicles which have to be tested – and, if not, why not?

Q5: Do you agree with the draft Impact Assessment at **Annex E** - and/or can you help us to quantify more precisely the estimated costs and benefits?

Section 6: What will happen next

- 6.1 A summary of responses, including the next steps will be published on the Department for Transport's website within three months after the end of the public consultation period.

Section 7: Impact Assessment

- 7.1 The Department fully understands the sensitivities which arise whenever new burdens are imposed on industry – and a new burden would arise if an additional tranche of vehicles were required to be subjected to annual roadworthiness tests. However, operators are already obliged by law to run vehicles in a roadworthy condition – and so the new burden would only arise in terms of the cost of the annual test and related vehicle down-time. And, perhaps just as importantly, such burdens are already incurred by the vast majority of HGV operators anyway – and so the introduction of any new testing burden for those operators with vehicles that are currently exempt from testing would help to create a more level playing field across the industry as a whole.
- 7.2 The price of an HGV test varies (according to axle number) between £75 and £131, which is not a significant sum when set against the average annual running costs of a heavy vehicle (around £21,407 per year per vehicle and £26,500 per year per driver). Furthermore, with the Department's Vehicle and Operator Services Agency (VOSA) planning to move the majority of tests over the next few years to private-sector-operated Authorised Testing Facilities (ATFs), it will increasingly be possible for a vehicle to be tested at the same time and place at which it is serviced or maintained. This should help to ensure that any new cost burdens to industry can be kept to a minimum.
- 7.3 Our preliminary assessment of the impact of the proposals on which we are consulting are contained in the attached Impact Assessment (**Annex E**)

Section 8: The consultation criteria

8.1 The consultation is being conducted in line with the Code of Practice on Consultation. The criteria are listed below, a full version of the Code of Practice on Consultation is available on the Better Regulation Executive web-site at:

<http://www.berr.gov.uk/files/file47158.pdf>

8.2 If you consider that this consultation does not comply with the criteria or have comments about the **consultation process** please contact:

Giada Covallero
Consultation Co-Ordinator
Department for Transport
Zone 2/25
Great Minster House
London SW1P 4DR

Email address consultation@dft.gsi.gov.uk

The Seven Consultation Criteria

1. **When to consult:** Formal consultation should take place at a stage when there is scope to influence the policy outcome.
2. **Duration of consultation exercises:** Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.
3. **Clarity of scope and impact:** Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.
4. **Accessibility of consultation exercises:** Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.
5. **The burden of consultation:** Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.

6. **Responsiveness of consultation exercises:** Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.
7. **Capacity to consult:** Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

Section 9: List of consultees

Association of Chief Police Officers
Association of Chief Police Officers Scotland
Alliance of Small Firms and Self Employed People
Association for Road Traffic Safety Management
Association Industrial Road Safety Officers
Association of British Insurers
Association of Independent Businesses
Association of Industrial Road Safety Officers
Association of Justices Chief Executive
Association of Magistrates' Officers
Association of Vehicle Recovery Operators
Automobile Association (AA)
BRAKE
British Industrial Truck Association
British Institution of Traffic Education Research
British International Freight Association
British Vehicle Rental and Leasing Association
Confederation of British Industry
Convention of Scottish Local Authorities
County Road Safety Officers Association
Department of Environment for Northern Ireland (DOENI)
Disabled Persons Transport Advisory Committee
Environmental Transport Association
Federation of Environmental Trade Associations
Federation of Small Businesses
Freight Transport Association
General Executive Council of the TGWU
Health and Safety Executive
Heavy Transport Association
Hewden
Institute of Highway Incorporated Engineers
Institute of Logistics and Transport
Institute of Road Safety Officers
Institute of Transport Administration
London Association of Recovery Operators
Magistrates' Association
Merseyside Passenger Transport Authority
Motor Insurers Bureau
Motorist Forum
National Assembly for Wales

National Association of Agricultural Contractors
National Farmers Union
National Society for Clean Air and Environment Protection
North West Regional Assembly
Parliamentary Advisory Council for Transport Safety
Police Federation for England and Wales
RAC
Road Haulage Association
Road Operators Safety Council
Road Rescue Recovery Association (RRRA)
Road Safety Council of Wales
Royal Society for the Prevention of Accidents
Scottish Government
Scottish Motor Trade Association
Showman's Guild of GB
Society of Operations Engineers
Society of Motor Manufacturers and Traders
The Chartered Institute of Logistics and Transport (UK)
The National Union of Rail, Maritime and Transport Workers (RMT)
The Traffic Commissioners
Trades Union Congress (TUC)
TNT Logistics
Transport and General Workers Union
Transport for London (TFL)
Transport Scotland
Welsh Assembly Government

List of exemptions from roadworthiness testing in Schedule 2 of the Goods Vehicles (Plating and Testing) Regulations 1988

Vehicle type	Remove exemption
1. Dual-purpose vehicles.	
2. Mobile cranes.	✓
3. Break-down vehicles.	✓
4. Engineering plant etc.	✓
5. Tarmac Trailers.	✓
6. Tower wagons.	✓
7. Road Construction vehicles.	✓
8. Fire fighting vehicles.	
9. Works trucks etc.	
10. Electrically propelled motor vehicles.	✓
11. Snow ploughs etc.	
12. Lifeboat tractors.	
13. Living vans*	
14. Medical /educational/display vehicles.	✓
15. Over-run-braked trailers.	
16. Limited use vehicles.	
17 Agricultural motor vehicles and trailed appliances.	
18. Agricultural trailers and agricultural trailed appliance conveyors.	
18A. Converter dollies.	
19. Public Service Vehicles*	
20. Licensed taxis*	
21. Vehicles used solely for the purposes of funerals*	
22. HGVs for export and visiting forces vehicles.	
23. Test HGVs.	
24. Visiting HGVs*	
25. Northern Ireland registered HGVs*	
26. HGVs based in seven Scottish islands.	✓
27. Visiting HGV trailers*	
28. 'Caterpillar-track' vehicles.	
29. Steam propelled vehicles.	
30. Pre-1960 HGVs.	
31. Specialised narrow-track utility vehicles.	
32. Airport 'handling' vehicles.	
33. Airport 'service' vehicles.	
34. Police HGVs.	
35. HGV tractor units drawing exempt trailers.	✓
36. Play buses*	
37. Large American pick-up trucks*	

* vehicles marked with an asterisk , while exempt from testing of HGVs under the Goods Vehicles (Plating and Testing) Regulations 1988, are nevertheless subject to roadworthiness testing under the separate testing regimes applied to cars (MOT), passenger service vehicles, or under legislation in Northern Ireland or their home state.

Review of case for removing exemptions

1. Mobile cranes (as defined in Schedule 3 to the Vehicles Excise Act 1971).

These are mobile self-propelled lifting cranes built on a road-going heavy-duty chassis.

According to DVLA statistics there are 4679 currently licensed vehicles.

They may travel long distances to get to site locations and are regularly seen on the road as they rarely stay in one location for any length of time.

Case for removing exemption:

Mobile cranes do not fall within the exemption criteria set out in Article 4.1 of Directive 2009/40/EC. Nor, since they are in regular use on the road, do they appear to meet the criteria for the exemption in Article 4.2.

Special considerations:

Could mobile cranes be reasonably easily accommodated in vehicle testing stations?

Would it be relatively easy to roller-brake test vehicles in the normal way?

2. Break- down vehicles.

Breakdown vehicles are defined in regulation 3 of the Regulations as motor vehicles with permanently mounted apparatus designed for raising one disabled vehicle partly from the ground and drawing that vehicle when so raised; and, which is not equipped to carry any load other than articles required in connection with that apparatus or for repairing disabled vehicles.

Break-down vehicles are based on a normal HGV chassis and are in regular use on the road. According to DVLA statistics, there are 14,342 currently licensed.

There is no equivalent exemption for 'light-break-down vehicles' under the Motor Vehicles (Tests) Regulations 1981 – which are subject to testing.

Equally, 'recovery vehicles' – which are designed to carry a disabled vehicle 'piggy-back' on-board do not meet the definition of 'break-down vehicles' because the disabled vehicle is not left with one or more wheel set in contact with the ground are subject to testing under the Regulations.

There is therefore currently an unfair distinction as between 'light' break-down vehicles – which do have to be tested – and 'heavy' break-down vehicles which do not. Also, as between recovery vehicles – which need to be tested – and heavy break-down vehicles which do not.

Case for removing exemption:

Breakdown vehicles do not fall within the exemption criteria set out in Article 4.1 of Directive 2009/40/EC. Nor, since they are in regular use on the road, do they appear to meet the criteria for the exemption in Article 4.2.

Special considerations:

Could break-down vehicles be reasonably easily accommodated in vehicle testing stations?

Would it be relatively easy to roller-brake test vehicles in the normal way?

3. Engineering plant and plant, not being engineering plant, which is movable plant or equipment being a motor vehicle or trailer (not constructed primarily to carry a load) especially designed and constructed for the special purposes of engineering operations.

Engineering plant is defined in regulation 3 of the Road Vehicles (Construction and Use) Regulations 1986 (“C&U”) as movable plant or equipment being a motor vehicle or trailer especially designed and constructed for the special purposes of engineering operations, and which cannot, owing to the requirements of those purposes, comply with all the requirements of C&U and which is not constructed primarily to carry a load. The exemption in Schedule 2 to the Regulations also applies to plant not being engineering plant.

Given the wide variety of body types fitted to these vehicles and the wide variety of classifications applied to them we do not know how many are in use on the road.

Many vehicles for which operators claim exemption from testing under this category are vehicles that are based on a normal HGV chassis and are in regular use on the road. Some vehicles, however, are uniquely constructed.

Case for removing exemption:

Many vehicles in this category do not fall within the exemption criteria set out in Article 4.1 of Directive 2009/40/EC. Nor, since they are in regular use on the road, do they appear to meet the criteria for the exemption in Article 4.2.

Special considerations:

Our view is that a large proportion of the vehicles that are said to be ‘engineering plant’ are based on a normal HGV chassis – and it would be our intention to include such vehicles in the future scope of the roadworthiness testing scheme. However, it would not be our objective to encompass unique, non-HGV-derived vehicles, if these could be readily and unambiguously be identified both in law and in practice.

Could ‘HGV-based’ engineering plant be reasonably easily accommodated in vehicle testing stations?

Would it be relatively easy to roller-brake test vehicles in the normal way?

4. Trailers being drying or mixing plant designed for the production of asphalt or of bituminous or tarmacadam.

These are generally draw-bar trailers designed to transport molten asphalt in bulk. Necessarily the asphalt needs to be heated on site – and the trailers are therefore also equipped with some form of heating unit.

These trailers were almost certainly exempted from testing in 1968 because there were concerns about causing damage to the then newly constructed network of Heavy Goods Vehicle Testing Stations – and also because of the potential risk involved in testing to testing station staff.

Case for removing exemption:

The original concerns about testing such trailers remain. However, such trailers do not fall within the exemption criteria set out in Article 4.1 of Directive 2009/40/EC. Nor, since they are in regular use on the road, do they appear to meet the criteria for the exemption in Article 4.2.

Special considerations:

It may well be that there are particular Health and Safety issues to address. However, there should be no insuperable problems provided trailers are ‘cold’ when submitted for test.

5. Tower wagons as defined in:

(a) Paragraph 8 of Schedule 1 to the Vehicles Excise and Registration Act 1994 as originally enacted; or,

(b) Paragraph 17 of Schedule 2 to that Act as originally enacted.

These are HGVs which carry an integral expanding or extendible device for facilitating the erection, inspection, repair or maintenance of overhead structures or equipment – but which are not constructed for the conveyance of any other load.

Most vehicles for which operators claim exemption from testing under this category are vehicles that are based on a normal HGV chassis and are in regular use on the road.

Our best estimate from DVLA statistics is that there are in the region of 3,000 tower wagons currently licensed and on the road.

Case for removing exemption:

Most vehicles in this category do not fall within the exemption criteria set out in Article 4.1 of Directive 2009/40/EC. Nor, since they are in regular use on the road, do they appear to meet the criteria for the exemption in Article 4.2.

Special considerations:

There are no special considerations that we are aware of. Originally it may have been the case that ‘tower wagons’ may not easily have been accommodated in what are now VOSA’s testing station halls. However, so far as we are aware, the same problem does not exist with modern vehicles since hydraulic hoists mostly appear to collapse completely onto the body of the vehicle.

6. Road Construction Vehicles as defined in section 61 of the Vehicles Excise and Registration Act 1994 as originally enacted and road rollers.

These are heavy goods vehicles which are constructed or adapted for use for the conveyance of built-in road construction machinery, and which are not constructed or adapted for the conveyance of any other load except articles and material used for the purposes of such machinery.

Many vehicles for which operators claim exemption from testing under this category are vehicles that are based on a normal HGV chassis and are in regular use on the road.

We do not have an estimate of the number of vehicles likely to be involved because there is a wide variety of vehicle types which may fall within the scope of the exemption.

Case for removing exemption:

Many vehicles in this category do not fall within the exemption criteria set out in Article 4.1 of Directive 2009/40/EC. Nor, since they are in regular use on the road, do they appear to meet the criteria for the exemption in Article 4.2.

Special considerations:

Some are clearly highly specialised vehicles which are really only designed for use 'on-site' and for the purposes of constructing/repairing roads, for example road rollers and tarmac layers. It would not be the intention to require that such vehicles should be subjected to periodical roadworthiness testing.

The types of vehicle whose exemption from testing we propose to remove would be vehicles which were essentially HGVs but which had ancillary equipment on-board which enabled the vehicle to serve part of the process of road construction whilst on-site.

7. Electrically propelled motor vehicles.

These are normal HGVs which are propelled by electric motors rather than by an internal combustion engine which is directly connected by a transmission train to the drive wheels.

Most vehicles for which operators claim exemption from testing under this category are vehicles that are based on a normal HGV chassis and are in regular use on the road. Electric HGVs currently weigh up to 12 tonnes and can travel at more than 50mph. We expect that, with advances in technology, electric vehicles of more than 12 tonnes will soon be commercially available.

We think that there are currently around 2,000 electric HGVs on the road according to DVLA statistics. However, there is clearly an expanding market for such vehicles – and advances in technology are likely to herald heavier variants than are currently available being developed in the future.

Case for removing exemption:

Vehicles in this category do not fall within the exemption criteria set out in Article 4.1 of Directive 2009/40/EC. Nor, since they are in regular use on the road, do they appear to meet the criteria for the exemption in Article 4.2.

Special considerations:

Clearly, some aspects of the existing HGV roadworthiness test (eg emissions) may not be applicable to electric vehicles, and some modifications to the test procedure for such vehicles may need to be made. However, the vast majority of the test procedures should be easily transferrable to them.

8. Vehicles constructed or adapted for, and used primarily for the purpose of, medical, dental, veterinary, health, educational, display, clerical or experimental laboratory services, such use:
(a) Not directly involving the sale, hire or loan of goods from the vehicle;
(b) Not directly or indirectly involving drain clearing or sewage or refuse collection.

The description of this class of vehicle is largely self-explanatory. However, all are based around normal HGV motor vehicles and HGV trailers.

Given the very wide nature of this class of exemption we do not have any estimate of how many such vehicles there may be on the road.

Case for removing exemption:

Vehicles in this category do not fall within the exemption criteria set out in Article 4.1 of Directive 2009/40/EC. Nor, since they are in regular use on the road, do they appear to meet the criteria for the exemption in Article 4.2.

Special considerations:

There should be none, so far as we are aware.

9. Vehicles having a base or centre in any of the following islands, namely, Arran, Bute, Great Cumbrae, Islay, Mull, Tiree or North Uist from which use of the vehicle on a journey is normally commenced.

This class of exempt vehicle includes any HGVs normally operated from any of these islands – irrespective of whether they make national or international journeys. However, these are vehicles that are based on normal HGV chassis and are in normal, regular, use on the road.

The exemption was probably included in the Regulations originally because:

- at the time the testing scheme was set up it was not considered economically viable to establish testing stations in ‘remote locations’;
- It was considered that there were relatively few vehicles in remote locations (so the risk to road safety in not testing was low);
- It was considered that operators from these locations would be unlikely to travel great distances on busy roads (so the risk to road safety of not testing was low).

We estimate that there are somewhere in the region of 2-300 such vehicles.

However, there is a further exemption under Regulation 44(2) of the Goods Vehicles (Plating and Testing) Regulations 1988 which exempts HGVs from roadworthiness testing if they are using roads on islands¹ not connected to the mainland. So as long as the HGVs in question operated **only** on these islands, they would remain exempt. We do not propose to remove this exemption.

Case for removing exemption:

Vehicles based on the seven islands do not fall within the exemption criteria set out in Article 4.1 of Directive 2009/40/EC. Nor, if they travel on roads outside the islands, do they appear to meet the criteria for the exemption in Article 4.2.

Special considerations:

¹ This exemption does not include the Isle of Wight, the islands of Lewis, Mainland (Orkney), Mainland (Shetland) or Skye

The considerations that led to these vehicles being exempted from testing in the first place are possibly still relevant to some degree. However:

- With the progressive increase of 'Authorised Testing Facilities' (ATFs) for HGV testing, it should be possible to introduce statutory roadworthiness testing for these vehicles in a cost-effective manner.
- The number of HGVs operated from these islands is likely to be greater now than it was in 1968 when the HGV testing scheme was originally established.

Some of the vehicles operated from these islands travel significant distances – and some may make international journeys.

10. Heavy motor cars or motor cars constructed or adapted for the purpose of forming part of an articulated vehicle and which are used for drawing a trailer falling within a class of vehicle specified in paragraph 13, 14 or 15 of this Schedule or a trailer being used for or in connection with any purpose for which it is authorised to be used on roads by order under section 44 of the 1988 Act, being an order authorising that trailer or any class or description of trailers comprising that trailer to be used on roads.

Essentially these are HGV tractor units used for drawing trailers that are exempt from testing – specifically living vans, display etc. vehicles, and over-run-braked trailers. Also, HGV tractor units drawing trailers operated under an Order issued under section 44 of the Road Traffic Act 1988.

Most vehicles for which operators claim exemption from testing under this category are vehicles that are based on a normal HGV chassis and are in regular use on the road.

Case for removing exemption:

Vehicles in this category do not fall within the exemption criteria set out in Article 4.1 of Directive 2009/40/EC. Nor, since they are in regular use on the road, do they appear to meet the criteria for the exemption in Article 4.2.

Special considerations:

There should be none, so far as we are aware.

Review of case for removing 'Regulation 44 exemptions'

These are effectively 'use' exemptions: that is, they disapply the offence of using a vehicle without a current roadworthiness testing certificate providing the vehicle is used for any of the prescribed purposes.

The exemption we are proposing to remove from the list is:

- regulation 44(1)(e): any purpose for which it is authorised to be used on roads by an order under section 44 of the 1988 Act;

Case for removing exemption: Regulation 44(1)(e)

Regulation 44(1)(e) vehicles are HGVs used under the provisions of orders made under section 44 of the Road Traffic Act 1988. These are not temporary exemptions. The exemption refers either to the use of a vehicle under a specific order made by the Secretary of State under section 44 (VSO); or, to the use of a vehicle under the provisions of the Road Vehicles (Authorisation of Special Types) Order 2003 (STGO). The provision is very similar in effect to exemption 23 in Schedule 2 to the P&T Regulations 1988.

Vehicles in this category do not fall within the exemption criteria set out in Article 4.1 of Directive 2009/40/EC. Nor, since they are in regular use on the road, do they appear to meet the criteria for the exemption in Article 4.2.

Special considerations:

Almost all of the vehicles authorised for use under a VSO are normal HGVs and should be capable of being tested as HGVs in the normal way. Some consequential arrangements would clearly need to be made in respect of testing bearing in mind that VSOs are granted in cases where the vehicle in question cannot comply in every respect with the requirements of the Road Vehicles (Construction and Use) Regulations 1986 and/or the Road vehicles Lighting Regulations 1989. However, all HGV-based vehicles should be capable of being subjected to most elements of a statutory roadworthiness test.

Some of the 'STGO vehicles' – at least the motor vehicles – will be normal, heavy, HGV tractor units, and these are the ones which we

propose should be subject to testing in future. Of course some of these vehicles will already be tested since some will be likely to be used both for STGO work and for general haulage. However, the intention is to ensure that any HGV-derived tractor units that are used exclusively for STGO work will no longer be exempt from statutory testing.

It would not be the intention to require statutory testing of:

- Specialised track-laying vehicles;
- Self-propelled trailers; or
- Multiple axle trailers capable of being operated in various axle configurations.

Review of case for removing ‘section 185 exemption’

Section 185 of the Road Traffic Act 1988 defines the following three classes of vehicle – which are of particular significance to this review:

- ‘heavy locomotive’: means a mechanically propelled vehicle which is not constructed itself to carry a load other than any of the excepted articles and the weight of which unladen exceeds 11690 kilograms;
- ‘light locomotive’: which means a mechanically propelled vehicle which is not constructed itself to carry a load other than any of the excepted articles and the weight of which unladen does not exceed 11690 kilograms but does exceed 7370 kilograms;
- ‘motor tractor’: which means a mechanically propelled vehicle which is not constructed itself to carry a load other than any of the excepted articles and the weight of which unladen does not exceed 7370 kilograms;

And the meaning of ‘excepted articles’ in this context means – under the provision of section 185(2) of the Act – any of the following: water, fuel, accumulators and other equipment used for the purpose of propulsion, loose tools and loose equipment.

Section 186(3) is also relevant in this context because it extends the scope of what might not otherwise be classified as a locomotive or motor tractor. It does so by stipulating that:

- For the purposes of section 185 of this Act, in the case of a motor vehicle fitted with a crane, dynamo, welding plant or other special appliance or apparatus which is a permanent or essentially permanent fixture, the load or goods or appliance or apparatus is not to be deemed to constitute a load or goods or burden of any description, but is deemed to form part of the vehicle.

This is of significance because the testing provisions under section 49 of the Road Traffic Act 1988 are relevant to ‘goods vehicles of any prescribed class’; and, whereas ‘goods’ are defined in section 192(1) of the Act as ‘goods or burden of any description’, sections 185 and 186

arguably effectively take many vehicles with only 'fixed equipment' on board outside the scope of the roadworthiness testing scheme.

Case for removing exemption:

There is no mention in Directive 2009/40/EC of goods vehicles which carry only fixed equipment being excluded from the scope of the Directive.

GB legislation appears to be somewhat confused on the point in that whilst sections 185 and 186 of the Road Traffic Act 1988 treat such vehicles as 'locomotives' rather than as goods carrying vehicles, some vehicles with only fixed equipment are included within the list of 'HGV exemptions' under schedule 2 of the P&T Regulations. In other words, GB legislation also classifies such vehicles as goods vehicles – which is unsurprising bearing in mind the following definitions in section 192(1) of the Road Traffic Act 1988:

- 'goods vehicle' means a motor vehicle constructed or adapted for use for the carriage of goods, or a trailer so constructed or adapted; and,
- 'goods' includes goods or burden of any description.

The vast majority of vehicles that may be classified as locomotives are in fact just ordinary goods vehicles in normal and regular use, albeit they may have fixed equipment on board rather than 'demountable goods-carrying capacity'. This makes the distinction with testable HGVs somewhat tenuous – given that the need for essential safety inspections and maintenance is just as great in relation to such vehicles; and, also that the potential consequences of a failure to maintain adequately are just as significant as in the case of goods vehicles designed to carry demountable/transportable goods.

Summary: Intervention & Options

Department /Agency: Department for Transport	Title: Impact Assessment of removal of exemptions from HGV roadworthiness testing.	
Stage: Consultation	Version: 1	Date: 10 November 2009
Related Publications: None		
Available to view or download at: http://www.dft.gsi.gov.uk		
Contact for enquiries: David Briggs		Telephone: 0207 944 6575

What is the problem under consideration? Why is government intervention necessary?

Certain classes of heavy goods vehicles (HGVs) benefit from an exemption from annual roadworthiness (MOT) testing allowed under GB legislation. This appears to be incompatible with EU law and leaves the Department liable to be challenged in the European Court. Government intervention would be needed to remove the exemptions. Furthermore, since roadworthiness testing of vehicles helps to reduce the number of accidents caused by defective vehicles, reducing the number of exemptions will benefit road safety.

What are the policy objectives and the intended effects?

The objective is to review the exemptions from HGV testing and ensure that GB law is fully compliant with EU law. The effect will be to subject certain classes of currently exempt HGV to annual testing. The result will be an increase of around 10% of the total number of HGVs currently subjected to testing. This will ensure that all 'HGV-based vehicles' are subjected to testing and that all vehicle operators are required to demonstrate compliance with minimum maintenance requirements in future for the benefit of road safety.

What policy options have been considered? Please justify any preferred option.

All 37 classes of exempt vehicle have been assessed for compatibility with EU law. Ten of the current exemptions appear to be incompatible, and these are the ones where we are suggesting that the vehicles in question should be subject to annual testing in future. We are, in addition, proposing some ancillary changes to legislation, primarily to close off some existing loopholes in the law.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? Annually after removal of the exemptions concerned

Ministerial Sign-off For consultation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:

PAUL CLARK..... Date: 9/12/009

Summary: Analysis & Evidence

Policy Option: 1

Description: Remove exemptions from HGV testing scheme that appear to be incompatible with EC law

COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups' The costs arise for those operators whose vehicles are currently not subjected to testing. In future they will face the costs involved in having to: prepare a vehicle for test; take it for testing; and, pay for a vehicle to be tested. Up to an estimated 40,000 vehicles benefit from this exemption currently.
	One-off (Transition)	Yrs	
	£ None	-	
	Average Annual Cost (excluding one-off)		
	£ 8.5m	1	Total Cost (PV) £ 8.5m
Other key non-monetised costs by 'main affected groups' There may be some additional costs arising by testing 40,000 vehicles annually – primarily the extra fuel and exhaust emissions involved in taking these vehicles for test. However, these could be offset by the fuel not used by the vehicles off the road so these are likely to be negligible			

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups'. An estimate of the value of accidents prevented has been made, with a possible range of impact used for the net benefit.
	One-off	Yrs	
	£ None	-	
	Average Annual Benefit		
	£ 6m	1	Total Benefit (PV) £ 6m
Other key non-monetised benefits by 'main affected groups' The significant non-monetised benefit of removing the exemptions is related to removing two major risks: removing the risk of infraction proceedings by the European Commission and removing the risk of 'disadvantaged parties' pursuing consequential damages actions.			

Key Assumptions/Sensitivities/Risks There are two uncertainties associated with our assessment: we do not know exactly how many motor vehicles are untested as no relevant records are kept; and, we do not know how many 'HGV trailers' are untested since trailers are not registered in any event.

Price Base Year 2009	Time Period Years (annual)	Net Benefit Range (NPV) £ - 6.5 to + £1.2m	NET BENEFIT (NPV Best estimate) £ - 2.5m
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What is the geographic coverage of the policy/option?	GB
On what date will the policy be implemented?	2010
Which organisation(s) will enforce the policy?	VOSA
What is the total annual cost of enforcement for these	£ Not known
Does enforcement comply with Hampton principles?	Yes
Will implementation go beyond minimum EU requirements?	No
What is the value of the proposed offsetting measure per year?	£ Not applicable
What is the value of changes in greenhouse gas emissions?	£ Negligible

Will the proposal have a significant impact on competition?			Yes (some)	
Annual cost (£-£) per organisation (excluding one-off)	Micro ?	Small ?	Medium ?	Large ?
Are any of these organisations exempt?	Yes	Yes	Yes	Yes
Impact on Admin Burdens Baseline (2005 Prices)			(Increase - Decrease)	
Increase	£ 0	Decrease	£ 0	Net £ 0
Key:	Annual costs and benefits: Constant Prices		(Net) Present Value	

Background

1. Annual roadworthiness testing of HGVs was introduced in Britain in 1968. At that time, a decision was taken specifically to exempt a number of categories of vehicle from testing – we think primarily because they were then ‘non-standard types of vehicle’, or vehicles which were limited in number or use. The exempt categories included, for example: electric vehicles, road construction vehicles, breakdown vehicles, vehicles containing engineering plant or health, education or display equipment, and vehicles based in seven Scottish islands.

2. There are also two other categories of vehicle that are essentially exempt from the requirement to undergo an annual roadworthiness test: one is exempt by virtue of restricted use; the other is exempt by virtue of vehicles being classified as haulage vehicles (locomotives) rather than as a goods-carrying vehicles.

3. EU law on roadworthiness testing is set out in Directive 2009/40/EC. This only allows exemptions from inspection for vehicles owned by the armed forces, police and fire service. However, subject to consulting with the European Commission, the Directive also allows Member States to exempt additional categories of vehicle “which are operated in exceptional conditions and vehicles which are never, or hardly ever, used on public highways, including vehicles of historic interest”.

4. One major reason for reviewing the list of exemptions now is because the number of exempt vehicles is growing. This raises concerns about road safety – and also of fairness, as between operators of vehicles that are currently tested, and operators of vehicles which are currently exempt from testing. We also have a legal obligation to ensure compatibility between the list of exempt vehicle classes and EU law on testing. The former is detailed in Schedule 2 to the Goods Vehicles (Plating and Testing) Regulations 1988 (‘the Regulations’); the latter is provided for under Article 4 of Directive 2009/40/EC.

5. It is difficult to give a precise estimate of the number of vehicles currently classified under exemptions which we think are incompatible with EU legislation. In total we estimate that around 40,000 vehicles are

involved – which is of the order of 10% of HGVs that are currently subjected to annual roadworthiness testing.

Risks

6. There are risks costs involved in maintaining the exemptions in the legislation as they stand. They are essentially the following (not easily quantifiable) risks:

- the European Commission taking infraction proceedings against the UK for not having implemented the roadworthiness testing Directive correctly (now consolidated in Directive 2009/40/EC);
- vehicle operators seeking to claim damages in the European Court on the basis that the failure in the UK to implement Directive 2009/40/EC has in some way caused them financial loss; and,
- additional road casualties arising as a result of the UK HGV testing scheme having previously failed to encompass all of those categories of vehicle that we now consider cannot be exempted under the provisions of Article 4 of Directive 2009/40/EC.

Option 1 – Modify the list of exemptions

Background

7. The proposal is to remove from UK (GB) legislation all of the exemptions from the HGV testing scheme that appear to us to be in conflict with EU law. There are ten specific exemptions in the Goods Vehicles (Plating and Testing) Regulations 1988 that appear to us not to meet the relevant exemption criteria in Article 4 of Directive 2009/40/EC. There are, additionally two further categories of exemption that appear not to meet the criteria in the Directive. One is in respect of vehicles used under the provision of Orders made under section 44 of the Road Traffic Act 1988; the other is vehicles classified as either as motor tractors or locomotives under section 186 of that Act.

Costs

8. The costs of testing the exempt vehicles we are proposing to include in the testing scheme in future would fall to the operators of such vehicles.

9. Operators of exempt vehicles currently benefit in at least three main ways, they save the cost of:

- The test fee – which varies between £75 and £131 (average £103) depending on the number of axles.
- Down-time for the vehicle – at – say – £43 per half day.
- ‘Non-productive time’ for drivers – at – say – £65 per half day.

This gives a total benefit of around £211 per vehicle not tested, which, across a total of around 40,000 vehicles equates to something in the region of £8.5million annually. The number of vehicles for which exemption is claimed is believed to be increasing each year. However, we have estimated the costs and benefits on the basis of a single year for simplicity. It is acceptable to do this because there are no one-off costs, and, because estimating the impact over a number of years would not change the net result.

10. There may also theoretically be some environmental cost involved in testing additional HGVs. This would principally arise due to the extra fuel burn and resultant emission of gaseous pollutants due to taking additional vehicles to and from testing stations (although the consequential costs involved would be minimised if most of these additional vehicles could be tested at Authorised Testing Facilities). However, these emissions may be entirely offset by the fact that the

vehicles in question would have been in use on the road anyway even if they had not been travelling to a testing station. Therefore we believe that the overall environmental impact of the proposal may be neutral, or, if not, that it is likely to be negligible.

11. Consequently, the estimated annual total of the new cost burden to operators would be £8.5m.

Benefits

12. The main benefit which would be realised in the implementation of this option would be the removal of the risks involved of leaving the exemptions in place. These risks were identified in paragraph 6 above.

13. Although it is not possible to assess the level of risk with any certainty – and similarly, therefore, the potential value of the risk – we can make some general observations about each element of risk.

Infraction proceedings

14. The risk of infraction proceedings is probably quite small, given that no action has been taken over the last 40 years in respect of the list of UK exemptions from testing. However, the risk is thought to be increasing, primarily due to the increase in the number of vehicles in respect of which exemption is being claimed (for example hydraulic platform and electric vehicles). The consequence of any proceedings would inevitably be that the Department would have to take the action it is proposing to take – namely to remove the incompatible exemptions.

Potential damages claims

15. The risk of a successful damages claim is also thought to be relatively small, although, again, whatever the risk may be, it is likely to be increasing. Our view is that anyone seeking to claim damages would have to be able to demonstrate a financial loss that was directly consequent upon the suspected incompatibility between UK and EU law on testing exemptions. Any such action would involve a substantial burden of proof.

Additional road casualties

16. We do not have detailed evidence on the number of accidents that might be avoided as a result of this proposal. What we can say is that,

for example, in 2008, there were 333 people killed in accidents involving GB HGVs and 1583 serious injuries. It is not easily possible to say which, if any, of these accidents may have involved a vehicle which is not currently subjected to HGV testing but which would be subject to testing in future. Nor is it possible to speculate about whether, if such a vehicle had been subject to testing already, it might not have been involved in such an accident. What we can say is that the general incidence of roadworthiness defects in accidents is 'low' (between 2 and 10%), though, at least in part, we believe this is due to the fact that most vehicles are subject to periodical roadworthiness tests.

17. To give a sense of the possible scale of impact we can use the range above and make some assumptions. As a best estimate of the impact we assume that, say, 6% of all HGV casualties are due to roadworthiness defects. This would mean that defects were responsible for 20 fatalities in 2008 (although we have no clear evidence to confirm that this is factually correct). Consequently, given that we estimate the currently untested vehicles fleet to be around 10% of the testable fleet, simple proportioning would suggest that, on average, possibly 2 fatalities may have been attributable to untested vehicles.

18. Similar proportioning could be applied to other classes of injury accident (and to all accidents in fact) – although this does not necessarily give a quantifiable measure of the value of roadworthiness testing. This would mean that roadworthiness defects in HGVs are liable to be responsible for 95 serious injuries every year – and currently non-tested HGVs might – on average – be expected to be responsible for around 10% of that total, say 10 serious injuries.

19. According to the Department's latest estimates for the value of preventing deaths and serious injuries on our roads, the value of preventing a death is of the order of £1.9m, and the value of preventing a serious injury £215K. Consequently, on the basis of this analysis, the currently non-testable vehicles we are concerned with could be responsible for an annual cost to society of $2 \times £1.9m + 10 \times £215K$. This is of the order of £6m annually.

20. To get a lower and upper bound of impacts we can use the 2-10% range given above. Continuing to assume that untested vehicles represent around 10% of the testable fleet, this gives a range of impact between £2m and £9.7m. However, given the relatively small number of casualties and uncertainties in this estimate, the total cost could vary considerably (and also from year to year).

21. What we can see, however, is that the total cost to operators could very easily be offset by a relatively small reduction in the number of casualties that we believe are likely to be attributable to unroadworthy HGVs that are currently exempt from annual roadworthiness testing.

Costs and benefits

22. It is not practical to make a fully quantified assessment of the potential benefit to society of making the changes proposed (under Option 1).

23. There would certainly be a cost to operators in having to have currently exempt categories of HGV subject to testing – we think in the region of £8.5m annually. There may be some change in environmental emissions but we believe this will be broadly neutral as explained above.

24. By comparison, the benefits to society of testing would arise due to:

- casualty savings (of the order of £2m to £9.7m annually); and,
- not having the continuing risk of legal actions for not having fully implemented Directive 2009/40/EC.

Benefits would also arise as a result of having a more level playing field for vehicle operators, and also as a result of some reduction in road congestion as a result of from fewer accidents caused by unroadworthy vehicles.

25. In summary, and in terms of potentially quantifiable parameters, the costs and benefits testing exempt classes of HGV are likely to be fairly evenly balanced, though perhaps slightly negative. However, a number of significant additional non-quantifiable benefits are likely to be realised in the event of removing these exemptions – and these are benefits that could not be realised whilst the exemptions remain. Therefore the impact of these proposals is thought to be broadly neutral to society and may offer significant benefits if the risk of legal action were to become real.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	No	No
Small Firms Impact Test	No	No
Legal Aid	No	No
Sustainable Development	No	No
Carbon Assessment	No	No
Other Environment	No	No
Health Impact Assessment	No	No
Race Equality	Yes	Yes
Disability Equality	Yes	Yes
Gender Equality	Yes	Yes
Human Rights	Yes	Yes
Rural Proofing	No	No

Consultation with small business: the small firms' impact test

We have not specifically consulted at this stage directly with any small businesses. However, all businesses – of whatever size – need to ensure that their vehicles are properly maintained throughout the year. Consequently, they should not be facing any additional costs as a result of any maintenance necessary to ensure that their vehicle (or vehicles) pass the test. Furthermore, given that the vast majority of HGV operators are already required to have their vehicles subjected to annual roadworthiness testing, they are not being discriminated against or being disadvantaged in any way as compared to their competitors and counterparts elsewhere in the industry.

The test fee comprises a very small proportion of the annual cost of running a motor vehicle: insurance, maintenance, fuelling costs and depreciation are all far more significant factors in terms of the cost to businesses of operating an HGV.

Race Equality Impact

The underlying principle of the MOT scheme is to ensure that all in-scope vehicles registered in GB are in a roadworthy condition irrespective of the ethnic origin of the registered keeper of the vehicle.

We carried out an initial screening exercise considering the content of these proposals and have not identified any direct or indirect impact with respect to equality.

Human Rights Impact

The Department does not consider the scheme is, in any way, in conflict with EU Law or the European Convention on Human Rights. EU law requires vehicles throughout the EU to be subject to periodical roadworthiness (MOT) inspection in the relevant Member State in which they are registered.

Gender Equality

These provisions will be applied equally to any person, irrespective of gender.

Disability Equality

These provisions will be applied equally to any person, irrespective of whether or not they have any disability.