



Lord Rosser
House of Lords
London
SW1A 0PW

14 February 2017

Dear Richard,

Pilot of the powers to search for and seize UK driving licences held by illegal migrants

I am writing to notify you of our plans to pilot the powers contained in paragraphs 25CA, 25CB and 25CC of Schedule 2 to the Immigration Act 1971 (as introduced by Section 43 of the Immigration Act 2016).

These new powers support the Government's policy that illegal migrants should not be allowed to drive on UK roads, as this is a privilege that should only be enjoyed by those with lawful status. This policy reflects the Government's wider strategy of strengthening our approach to tackling illegal migration. Together, the Immigration Acts 2014 and 2016 have introduced a number of measures that make it more difficult for illegal migrants to live and work in the UK, and provide a more effective deterrent to overstaying and illegal migration.

The new driving provisions give authorised officers (currently police and immigration officers) the power to search for and, where found, seize UK driving licences held by illegal migrants. These new powers apply to non-EEA nationals only, and authorised officers will be able to seize full and provisional UK driving licences. They will also be able to seize revoked and unrevoked licences; where an unrevoked licence is seized, we will seek to revoke it.

These powers complement the existing provisions in the Immigration Act 2014, which introduced the power to revoke illegal migrants' UK driving licences, and codified in statute the policy that UK driving licences should not be issued to illegal migrants. The new search and seizure powers will help ensure that revoked licences are removed from circulation. Under existing legislation it is a legal requirement to return a revoked licence, regardless of the reason for revocation. It is possible that some illegal migrants encountered during the pilot may therefore already be committing the criminal offences of failing to surrender a revoked licence, and driving otherwise than in accordance with a valid licence.

During the passage of the Immigration Act 2016, some concerns were raised around police use of the new powers during vehicle stops, and potential impacts of this on Black and Minority Ethnic (BME) drivers. The driving licence powers are not expected to change the nature or frequency of police vehicle stops, as they are not a stopping power. Rather, they are intended to be used reactively, where in the course of their normal work an officer has stopped a person for an objective reason and forms reasonable grounds to believe they are an illegal migrant. Moreover, the Home Office has worked successfully with the police to reform stop and search practices, and the Government has made it clear that no one should be stopped on the basis of their race, ethnicity, or other protected characteristic, as this would be unlawful under the Equality Act 2010. Nonetheless, in response to the concerns raised, Lord Bates, the then Home Office Lords Minister, committed to piloting police use of the powers in one or two forces areas so that any adverse impacts can be identified and addressed prior to national roll out.

The police will pilot the powers in Kent and West Yorkshire. In both areas, the pilot will begin with an initial period of baseline data collection on vehicle stops, during which time the powers will not be in effect. The baseline data will include the reason for the vehicle stop, the outcome of the stop, and some demographic information about the driver. Following the collection of sufficient baseline data, the driving licence powers will be commenced in the pilot areas only, and the police will record additional data on their use of the search and seizure powers, including reasonable grounds (as with Best Use of Stop and Search reporting requirements). The collection of baseline data is expected to start this month in both police forces. The Home Office is working closely with the police in preparation for the pilot and we will be monitoring the pilot throughout its duration. In addition, and although no commitment was made to do so, Immigration Enforcement (IE) will separately pilot their use of the driving licence powers in the same areas and to the same timeframes. IE will use the powers within the course of their normal work, and given the concerns about vehicle stops do not apply to IE, the data collected will be different to that of the police. We will be happy to provide more information if helpful as the pilot preparations continue.

We also committed to consulting publicly on the draft guidance to be issued to police and immigration officers on the use of these powers, including safeguards against misuse. The public consultation will take place after completion of the pilot, as the guidance documents will be informed by the pilot evaluation and feedback from police and immigration officers in the pilot areas. The pilot evaluation will include an assessment of whether the new search and seizure powers alter the nature or frequency of police vehicle stops, with a particular focus on any impacts on BME groups and how these impacts, if identified, can be addressed. The consultation will also raise awareness of the driving licence powers and provide an important opportunity for stakeholders to comment.

I am copying this letter to Lord Paddick, Baroness Hamwee and Baroness Lawrence in recognition of their previous interest in this topic. I will also place a copy of this letter in the House Library.



Baroness Williams of Trafford