



Department for Transport

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To: John Dyne,
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(BY EMAIL)

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Dear Mr Dyne

Thank you for your letter of 25 April to Jesse Norman MP. It has been passed to me for reply.

You raise a number of points in relation to the legal position of mobile concrete batching plant (MCBP) operating weights. The Department has put its position on record in respect of the regulatory regime relevant to these vehicles, including in evidence to a Parliamentary Transport Select Committee in 2013/14 at which both the then responsible minister Robert Goodwill MP and a BSA representative gave evidence.

So for example written evidence (paragraph 4 of the document at <http://data.parliament.uk/WrittenEvidence/CommitteeEvidence.svc/EvidenceDocument/Transport/Cycling%20safety/written/5742.html>) stated:

“In summary, our view is that volumetric concrete mixers fall within the definition of “goods vehicle” as defined in regulation 3 of the Construction and Use Regulations. We consider these vehicles do not satisfy all the requirements to be considered “engineering plant” so are goods vehicles for the purposes of Construction and Use and other legislation that is dependent on the Construction and Use definition.”

Legal advice given to the Department is privileged information and is not usually disclosed. However the written evidence above and other policy statements clearly indicate the effect of the legal advice. It is the Department’s longstanding and publicly-stated position that MCBP are subject to the standard weight limits, in the absence of specific provision to the contrary (such as the new vehicle special order arrangement), and the Department has never endorsed non-compliance with those limits.

Historically the vehicles have not required plating and testing, but the Department has been clear in its view that exemptions from plating and testing are not the same

as exclusion from Construction and Use and other regulations related to laden weights.

For example, Regulation 4(1)(a) of the Road Vehicles (Authorised Weight) Regulations 1998 (and the equivalent provisions in the Road Vehicles (Construction and Use) Regulations 1986) applies a limit of 32 tonnes to 4-axle rigid vehicles, and there is no provision that dis-applies it to vehicles such as MCBP, unless they are operating under an order made under section 44 of the Road Traffic Act 1988 which explicitly dis-applies it.

In addition to the regulatory context, it is important to note that the policy decision was, as the Minister's letter makes clear, taken with regard to the wider context, namely the routine operation of many MCBP above the standard weight limits, over an extended period of time. We recognise that for many operators this arose through a genuine belief that they were entitled to run above the weight limits, and this context is reflected in the decision to put in place a temporary arrangement for an extended period of time.

I understand that you disagree with the decision not to take forward a permanent specific weight arrangement for MCBP. However, the Department's view is that this decision does provide clarity on the basis of which affected operators can make forward plans, for example the adaptation you refer to of using 6-axle articulated vehicles, where this is feasible and appropriate.

You refer specifically to the deadline of 31 December 2018 for vehicles to be newly registered in order to benefit from the temporary arrangement. This arrangement has been put in place primarily to enable much of the current fleet to be used at higher-than-normal weight limits for a temporary period. The ability for vehicles registered up to the end of this year was made to enable the small number of vehicles that were already under manufacture at the point of the decision being announced to benefit from the arrangements.

I would be happy to review information or evidence related to whether the December 2018 date should be moved into mid-2019 as you request.

Yours sincerely,



Duncan Price