



Department
for Transport

Roadworthiness Testing

At last all the speculation is over. We can now discuss the actual approach of the Government to the implementation of its obligations under the EU Roadworthiness Testing Directive and how it will affect the United Kingdom's MoT Test as it applies to historic vehicles and specifically Vehicles of Historic Interest (VHIs).

Section A. General Comments

1. To get any political questions out of the way first, though the UK is obviously exiting the EU, the UK Government's policy is that, until the actual leaving date, the UK is bound legally to apply every piece of EU legislation in accordance with its terms. All UK laws made in support of EU legislation will be carried over and these laws will only be changed if it is clearly an advantage to do so. As the general principles of the Roadworthiness Testing Directive were actively supported by the Government on road safety grounds, and as the Department for Transport (DfT) believe, with some justification, that the UK system of MoT testing is robust and effective, it is probable that these rules will continue post Brexit.
2. Most of the content of the Directive has nothing to do with historic vehicles. Much of the Directive does not require any change to the existing UK MOT regime.
3. The decision that the UK should avail itself of a right to exempt VHIs has been taken after both consultation and examination of the accident statistics. It is the view of DfT that an increased level of exemption beyond the current 1960 cut-off will not lead to a greater number of accidents. DfT has also a wish, in the interests of efficiency, to standardise how testers report their undertaking of the MoT test to the Driver and Vehicle Standards Agency (DVSA). They hope that exemption of VHIs will lead to a reduced number of MoT tests having to be undertaken on vehicles which were built to different standards than current vehicles and that this reduction will enable simplification of reporting. While this approach could have the effect of increasing standardisation of the way MoT tests are carried out, thus making testing of older vehicles with different characteristics more difficult, the Federation is not yet aware of that effect occurring or being planned in the actual testers manual. Only three new items to be tested, all being covered by the Road Vehicles Lighting (Amendment) Regulations 2017 which were laid in Parliament on 14 September.
4. The change provides a right to an exemption from the MOT. The Federation is aware that many owners, particularly of vehicles towards the newer end of the spectrum, will wish to continue to submit their vehicles for an annual MoT test. There is no prohibition whatever

on them continuing to do so, as of course has been the case with the former exemption for vehicles built up to 1960.

5. MoT testing and all matters which pertain to it are and remain the responsibility of the DVSA. Roadworthiness testing has nothing to do with vehicle registration or licensing, which is controlled by the Driver and Vehicle Licensing Agency (DVLA). The sole involvement of DVLA in the arrangements described below is to provide the platform for declaration by its keeper of a vehicle as a VHI. However, the pre-existing registration status of the vehicle may affect its eligibility as a VHI. This matter is further discussed in the substantive comments below.
6. The Federation is aware that earlier drafts of Guidelines published by the DfT caused great and indeed justified concern to Federation members. It is important to make clear that these guidelines are now in the past and that the only relevant documents are those referred to below.
7. While the eventual solution may not be quite what the Federation might have wished, we were deeply involved in the evolution of the Guidance into its current form, and we must give great credit to the staff of the DfT who have been dealing with this matter, under a significant amount of time pressure, for the extent to which they listened to and took account of our advice and views in reaching what we consider to be the workable and fairly light touch solution for which all parties wished.

Section B. Substantive Proposals

1. All aspects of changes to the MoT testing regime in the UK come into force, in line with the Directive, on 20 May 2018.
2. The DfT is availing itself of the right provided by the Directive to permit a limited exemption from Roadworthiness Testing for historic vehicles.
3. While the Directive assumes that motorcycles will not be included in the Directive until 2022, and has not yet laid down a final



list of criteria to be met in motorcycle roadworthiness testing across the EU, the DfT, considering that the UK MoT regime in respect of motorcycles is already robust and accepted, has decided to include those which qualify as VHIs within the ambit of exemptions. However, the criteria for categorisation of a motorcycle as a VHI is, for practical reasons, much simpler, as set out in Substantive paragraph 20 below.

4. Certain vehicles which operate commercially, however original, are not capable of exemption as VHIs from MoT testing. These are (a) buses and coaches built after 1960 and (b) all heavy goods vehicles.
5. Heavy steam vehicles remain excluded from all MoT testing.
6. DfT considers that the right to grant an exemption is limited by the precise permission in the Directive, and that it must therefore limit the right to exemption to those vehicles which meet the definition of a 'vehicle of historic interest' in the Directive. Not all EU Member State Governments have interpreted the Directive so strictly but the legal reasoning is perfectly clear. The actual legal basis is contained in the Motor Vehicles (Tests) (Amendment) Regulations (2017 No 850) which were laid before Parliament on 14 September 2017.
7. Section 7 of these Regulations deals with the definition of vehicles of historic interest. The wording essentially (with one exception) replicates the provisions of the Directive, as follows:
'vehicle of historical interest' means a vehicle which is considered to be of historical interest to Great Britain and which
 - was manufactured or registered for the first time at least 40 years previously;
 - is of a type no longer in production; and
 - has been historically preserved or maintained in its original state and has not undergone substantial changes in the technical characteristics of its main components.'The exception is the choice of forty, not thirty, years as the time limit for exemption. This is chosen generally to reflect the age that a vehicle requires to be to become entitled to 'historic' class Vehicle Excise Duty status.
8. There is further legislation, to which reference is made in Section A paragraph 3 and 11b of this Section B.
9. The policy of the DfT, as set out in a letter to the Federation chairman, David Whale, of 11 August 2017 from the Minister responsible, Jesse Norman MP, is that application should be by a 'voluntary, self-reporting system not affecting the vast majority of vehicles'.
10. The actual exemption regime will be administered by way of Departmental Guidance from DfT. This Substantial Change Guidance and accompanying Advice is reproduced in full following this article. It should be recognised that

departmental Guidance is not strictly a part of UK laws but is administrative in nature. What this Guidance does is to set out formally how DfT and its agencies, DVSA and DVLA, will administer application of the Legislation.

11. The exemption for VHIs replaces two previous global exemptions from the MoT.
 - a. All vehicles which the DVLA recognised as having been built before 1960 are exempt until 20 May 2018 but the Regulation will require all these vehicles to be VHIs in order to continue to be exempt.
 - b. Separately, old heavy goods vehicles (originally those built before 1940, latterly before 1960) were excluded (not exempted) from testing by reason of the Plating and Testing Regulations, for the sole reason that it is difficult, if not impossible to test them. However the Plating and Testing Regulations have been amended by the Goods Vehicles (Plating and Testing) (Miscellaneous Amendments) Regulations 2017, laid before Parliament on the same date as the main Testing Regulations. They remove historic vehicles from the list of excluded vehicles, meaning that the very small number of old goods vehicles which are so modified as not to qualify as VHIs should be subject to an MoT test after 20 May 2018. The Federation is not convinced that the distinction between exemption and exclusion was fully understood when the decision to remove these old vehicles from the list of exclusions in the Plating and Testing Regulations was made. DVSA do understand the situation and will try to assist in solving issues if any of these vehicles prove difficult or impossible readily to test. DVSA has also assured the Federation that any vehicle which is not to be tested does not require to be plated. Discussions on the modalities of this approach continue. Any vehicle owner encountering any practical issues with this position is invited to contact the Federation.
12. Much of the Guidance is the proposed regime for deciding whether a vehicle is a VHI. A vehicle built more than forty years ago is a VHI unless it has, within the previous thirty years, undergone a 'substantial change'. The Guidance sets out the criteria to be considered in assessing what constitutes a substantial change, primarily by assessing what is not to be considered substantial.
13. All comments from this paragraph onwards have to be recognised as expressing the views of the Federation. They do not alter the Guidance as such.
14. The process for recognition as a VHI is one of self-declaration. Each year, when the keeper of the vehicle applies for licensing for the next year, whether online or at a Post Office, which of course is required annually even for vehicles which are entitled to a nil rate VED, there will be a question about the status of the vehicle as a VHI. The precise wording of the question has not yet been published by DVLA. The Federation will publicise these words when they are known. There is currently no procedure for advancing the date of declaration from the due date for re-licensing.
15. If the keeper of a vehicle considers the vehicle to be a VHI, the keeper is entitled to tick the box and declare it a VHI. The vehicle will then be exempt from taking an MoT test during the next year.
16. Clearly if a vehicle which is declared as a VHI then undergoes a substantial change it will not continue to be a VHI and the keeper will not be able to declare it in the year subsequent to the change.
17. At the time of writing the transitional arrangements are not fully clear.
18. According to the legislation, it is the status of a vehicle as a VHI (not its declaration as such,) which infers exemption. This has differing effects as between pre- and post-1960 vehicles.
19. Pre-1960 vehicles, which are currently exempt, may not require licensing, and therefore their keepers may not be able to make a declaration as a VHI, until up to twelve months from the 20 May. Current advice from DVSA is that though the database will continue to show them all as exempt, and they will not be subject to any enforcement action until their date of re-registration. Keepers who will be choosing not to declare their vehicle as a VHI when it comes time for re-licensing would be wise to have their vehicles submitted for an MoT test prior to that date.
20. The position for post-1960 vehicles over forty years old is somewhat different. There is the same probability that many will on 20 May be scheduled to undergo their next MoT test before the next date for re-licensing. That is the status the database will show, although clearly under the legislation, if they are qualified as VHIs they ought to be exempt. If nothing changes, the advice would have to be to have the vehicle submitted for an MoT on the current due date and, if the keeper so decides, declare the vehicle as a VHI when the vehicle becomes liable for re-licensing which will mean exemption for subsequent MoT tests. This appears inconsistent with the legislation, a fact now recognised within DfT and the Federation will continue to progress this matter.
21. It will be possible for any keeper who considers that there is a benefit in having his vehicle recognised as a VHI, to both make a declaration as a VHI and also have the vehicle undergo a voluntary MoT test.
22. While there is not currently any proposed check on the correctness of the declaration, the Federation must advise members not to wrongly declare a vehicle is a VHI if it is known to have undergone substantial change within the previous thirty years.
23. Not least, in view of the fact that a vehicle's status as a VHI does not exempt the keeper from responsibility for keeping the vehicle roadworthy at all times, a finding after an accident that a vehicle ought not to have been

declared a VHI, and thus exempted from an MoT, could well be considered evidence that the vehicle concerned was not in fact being kept in a roadworthy condition.

24. There are two categories of criteria.
 - a. Those which describe the nature of change, largely by exception, and which are not to be applied to motorcycles, and
 - b. Those which, by reference to the basis upon which they were registered, are regarded by DVLA as too new to be eligible. Only this set of criteria applies to motorcycles.
25. It is not intended here to list the criteria, as it is assumed members can study the document itself. General points of note follow.
26. The VHI requirement refers to technical standards, not originality. This applies to all components, thus permitting the gradual like for like replacement of components of all types, including the chassis or monocoque, which many historic vehicles will have to undertake simply in order to remain roadworthy.
27. Generally, fitting of an engine which was available for the model of vehicle at the time is not considered 'substantial'.
28. In the listing of components, the absence of specific reference to transmissions is deliberate. It is recognised that almost every gearbox change will have been made for reasons of efficiency, safety or environmental performance.
29. Before making an assessment that a change is 'substantial' keepers should study the four general exemptions set out in the guidance.
30. The Guidance calls for any keeper who is in doubt as to whether his vehicle has suffered 'substantial change' within the past thirty years to seek the advice of an expert. While it is the joint understanding of the Federation that the overall effect of the Guidance as finalised should be that a greater proportion of UK historic vehicles will qualify as VHIs, the Federation has nevertheless undertaken to DfT, in order to ensure that there is limited scope for self-described 'experts' to enter the field, to set up a list of approved experts, which we trust will include many of our major member clubs. The Federation intends to have a list of experts in place together with a statement of what keepers will be entitled to expect, and indeed not entitled to expect, from those experts, before the new regime comes into force in May and we will be publicising that list for any keeper having a need to take advice on our website.

This article has taken account both of our understandings from our discussions with DfT and of questions asked by members since the Guidance was issued. I am aware that a number of members asked questions and were asked to be patient until they had had an opportunity to read this article. Now that you have had an opportunity to read our advice, if you still feel there are issues that are not clear, please do not hesitate to contact me either directly or through the Secretary.

Vehicles of Historic Interest (VHI): Substantial Change Guidance

Most vehicles manufactured or first registered over 40 years ago will, as of 20 May 2018, be exempt from periodic testing unless they have been substantially changed¹.

Large goods vehicles (i.e. goods vehicles with a maximum laden weight of more than 3.5 tonnes) and buses (i.e. vehicles with 8 or more seats) that are used commercially will not be exempted from periodic testing at 40 years.

A vehicle that has been substantially changed within the previous 30 years will have to be submitted for annual MoT testing. Whether a substantially changed vehicle requires re-registration is a separate process.

Keepers of VHIs exempt from periodic testing continue to be responsible for their vehicle's roadworthiness. Keepers of vehicles over 40 years old can voluntarily submit vehicles for testing.

Keepers of VHIs claiming an exemption from the MoT test should make a declaration when renewing their vehicle tax. The responsibility to ensure the declared vehicle is a VHI and meets the criteria, rests with the vehicle keeper as part of their due diligence. If a vehicle keeper is not sure of the status of a vehicle, they can consult a marque or historic vehicles expert, a list of whom will be available on the website of the Federation of British Historic Vehicle Clubs.

If a vehicle keeper cannot determine that the vehicle has not been substantially changed, they should not claim an exemption from the MoT test.

The criteria for substantial change

A vehicle will be considered substantially changed if the technical characteristics of the main components have changed in the previous 30 years, unless the changes fall into specific categories. These main components for vehicles, other than motorcycles², are:

Chassis (replacements of the same pattern as the original are not considered a substantial change) or **Monocoque bodyshell** including any sub-frames (replacements of the same pattern as the original are not considered a substantial change);

Axles and running gear – alteration of the type and or method of suspension or steering constitutes a substantial change;

Engine – alternative cubic capacities of the same basic engine and alternative original equipment engines are not considered a substantial change. If the number of cylinders in an engine is different from the original, it is likely to be, but not necessarily, the case that the current engine is not alternative original equipment.

¹ If the type of vehicle is still in production, it is not exempt from periodic testing.

² Further arrangements for motorcycles may be introduced, including if core testing standards are considered further internationally.

The following are considered acceptable (not substantial) changes if they fall into these specific categories:

- changes that are made to preserve a vehicle, which in all cases must be when original type parts are no longer reasonably available;
- changes of a type, that can be demonstrated to have been made when vehicles of the type were in production or in general use (within ten years of the end of production);
- in respect of axles and running gear changes made to improve efficiency, safety or environmental performance;
- in respect of vehicles that have been commercial vehicles, changes which can be demonstrated were being made when they were used commercially.

In addition if a vehicle (including a motorcycle):

- has been issued with a registration number with a 'Q' prefix; or
- is a kit car assembled from components from different makes and model of vehicle; or
- is a reconstructed classic vehicle as defined by DVLA guidance; or
- is a kit conversion, where a kit of new parts is added to an existing vehicle, or old parts are added to a kit of a manufactured body, chassis or monocoque bodyshell changing the general appearance of the vehicle;

it will be considered to have been substantially changed and will not be exempt from MOT testing.

However if any of the four above types of vehicle is taxed as an "historic vehicle" and has not been modified during the previous 30 years, it can be considered as a VHI.

This guidance is only intended to determine the testing position of a substantially changed vehicle, not its registration.

How to declare a vehicle for the 40 year MOT exemption

Vehicle keepers are required to ensure that their vehicles are taxed when used on a public road. From 20 May 2018, at the point of taxing a vehicle, the vehicle keeper can declare their vehicle exempt from MOT if it was constructed more than 40 years ago.

When declaring an exemption, you will be required to confirm that it has not been substantially changed (as defined in this guidance). This process will be applied to pre-1960 registered vehicles, as well as newer vehicles in the historic vehicle tax class.

If the vehicle does not have an MOT and you wish to continue using it on the public roads, you will have either to undergo an

MOT or, if you wish exemption from the MOT, to declare that the vehicle is a VHI.

If the vehicle has a current MOT certificate but you anticipate that on expiry of that certificate you will wish exemption from future MOTs you will at the time of relicensing be required to declare that the vehicle is a VHI.

How to tax your vehicle in the historic vehicle tax class

Where vehicle keepers first apply for the historic vehicle tax class, it must be done at a Post Office. If you are declaring that your vehicle is exempt from MOT, you will need to complete a V112 declaration form, taking into consideration the substantially changed guidelines, (as defined above). Further re-licensing applications, including making subsequent declarations that the vehicle does not require an MOT, can be completed online.

Further advice on taxing in the historic vehicle tax class can be found via the following link:

<https://www.gov.uk/historic-vehicles>

Advice (not part of the Guidance)

What do I need to do if I am responsible for a vehicle aged more than 40 years old and first registered in or after 1960?

From 20 May 2018 most of these vehicles will not need a valid MOT certificate to be used on public roads. You still need to keep the vehicle in a roadworthy condition and can voluntarily have a test. We recommend continued regular maintenance and checks of the vehicle.

You need to check whether the vehicle has been substantially altered in the last 30 years, checking against the criteria (in the guidance above). If it has been altered substantially a valid MOT certificate will continue to be required. If you are unsure check, for example from an expert on historic vehicles (list referenced in the guidance). If you buy a vehicle, we also recommend checking with the previous owner if you can.

The registration number of a vehicle should not be used to determine if the vehicle is a VHI as it may not reflect the vehicle's age (cherished transfers, reconstructed classic vehicles etc.) The registration certificate (V5C) is more authoritative, but there are specific cases for example related to imported vehicles where in some cases the age of the vehicle would not have been captured at point of registration.

If your vehicle does not have a current MOT certificate and is exempt from needing an MOT test you will need to declare this each time when you apply for Vehicle Excise Duty.

For large vehicles, see also the later sections.

What do I need to do if I am responsible for a vehicle first registered before 1960?

These vehicles are currently exempt from the requirement for a valid MOT certificate to be used on public roads. Most, but not all, will continue to be exempt. You still need to keep the vehicle in a roadworthy condition and can voluntarily have a test. We recommend continued regular maintenance and checks of the vehicle.

You need to check whether the vehicle has been substantially altered within the last 30 years checking against the criteria (in the guidance notes). If it has been substantially changed, an MOT certificate will be required for its use on public roads from 20th May 2018, even if the vehicle has previously not required an MOT.

If your vehicle does not have a current MOT test certificate and is exempt from needing an MOT test you will need to declare this each time when you apply for Vehicle Excise Duty.

If you are responsible for a large goods vehicle (more than 3.5 tonnes) or a public service vehicle (with 8 or more passenger seats) used commercially, you will require a valid test certificate if the vehicle has been substantially changed in the last 30 years or if, in the case of a goods vehicle, it is used when laden or towing a laden trailer.

Which old, large vehicles do not require testing from 20th May 2018?

Buses and other public service vehicles with 8 or more seats that are used commercially are exempt if they are pre-1960 vehicles. This is still the case from 20th May 2018 unless they have been substantially changed.

Buses that are not public service vehicles over 40 years old are exempt from 20th May 2018 if they meet the new definition of "vehicle of historical interest".

Large goods vehicles (of more than 3.5 tonnes) are exempt from testing, if first used before 1960 and used unladen, but provided (with effect from 20th May 2018) they have not have been substantially changed.

A small number of pre-1960 large goods vehicles will require goods vehicle tests. If they have never been tested, owners will need to apply for a first test using a VTG1 application form. This includes contact details for DVSA, which can be used in the event of practical problems, for example concerns about testability and finding a test centre.

Some separate exemptions from testing in full or parts of the test are relevant to some old, large goods vehicles. For example steam powered vehicles are exempt from testing. Another example is in respect of the petrol driven historic lorries, all spark ignition (petrol) vehicles over 3.5tonnes are exempt from a metered check in the test.