EXPLANATORY MEMORANDUM TO

THE MOTOR VEHICLES (INTERNATIONAL CIRCULATION) (AMENDMENT) (EU EXIT) ORDER 2019

2019 No. [XXXX]

1. Introduction

1.1 This explanatory memorandum has been prepared by The Department for Transport and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The purpose of this instrument is to amend provisions of the Motor Vehicles (International Circulation) Order 1975 ("the 1975 Order") in order to implement provisions of the 1968 Vienna Convention on Road Traffic ("the 1968 Convention") concerning International Driving Permits ("IDPs"). These amendments will extend the 1975 Order to the 1968 Convention format IDP. By virtue of these amendments, the power to charge a fee for the issue of IDPs will extend to the issue of IDPs under the 1968 Convention.

2.2 These documents are required so that UK motorists can exercise their international legal rights to drive in the territories of Contracting Parties to the 1968 Convention once it enters into force for the UK on 28 March 2019. Further details and background information on this Convention are included in Section 7 of this Explanatory Memorandum.

2.3 These amendments also provide for the recognition of an IDP issued by another Contracting Party to the 1968 Convention to a person who is resident outside the UK and who is temporarily in Great Britain.

2.4 The recognition of IDPs held by persons who are not resident in the UK but who are temporarily in Northern Ireland is a transferred matter and will therefore be the subject of a separate Order.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

3.2 The territorial application of this instrument varies between provisions.

3.3 The powers under which this instrument is made cover the entire United Kingdom in respect of the issue of IDPs to persons resident in the UK, and cover England and Wales, and Scotland in respect of persons resident outside the UK who are temporarily in Great Britain. This instrument extends to those territories accordingly

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is the United Kingdom.

4.2 The territorial application of this instrument is the United Kingdom (other than Article 2(3)). The territorial application of Article 2(3) is England and Wales and Scotland.

5. European Convention on Human Rights

5.1 The responsible Minister, Jesse Norman has made the following statement regarding Human Rights:

"In my view the provisions of the Motor Vehicles (International Circulation) (Amendment) (EU Exit) Order 2019 are compatible with the Convention rights."

6. Legislative Context

6.1 The United Kingdom ratified the 1968 Convention on 28 March 2018 and it will come into force for the UK on 28 March 2019. The effect of this instrument is to extend the power to charge a fee for the issue of IDPs to persons resident in the UK to IDPs in the format specified in Annex 7 of the 1968 Convention.

6.2 This instrument will also make it lawful for a person who is resident outside the UK and who holds an IDP issued by another Contracting Party to the 1968 Convention to drive in Great Britain. This replicates the arrangements that are already in place in relation to IDPs issued in the formats set out in the earlier 1926 Paris Convention Relative to Motor Traffic and 1949 Geneva Convention on Road Traffic ("the 1949 Convention"), to both of which the UK is a Contracting Party.

7. Policy background

What is being done and why?

7.1 As part of the government's preparations for leaving the EU, the UK has ratified the 1968 Convention, which is a UN international treaty designed to facilitate international road traffic and increase road safety by establishing uniform traffic rules. The UK originally signed the 1968 Convention in November 1968, but only ratified it in 2018 because of the decision to leave the EU and the need to ensure the continued recognition of UK driving licences. Being party to this Convention ensures that in the event that the UK leaves the EU, without either an EU wide deal, or a comprehensive set of bilateral agreements on driver licensing, holders of UK driving licences can ensure recognition if they hold the relevant International Driving Permit. It was necessary to make a decision to ratify the 1968 Convention at this point, as Article 47(2) of the Convention specifies a 12-month period between the instrument of ratification being deposited, and the Convention itself coming into force for the ratifying State.

7.2 The government decided that ratifying the 1968 Convention was necessary because, while the UK has long been a party to the 1949 Convention, not all Member States are party to that Convention, which meant that there was a gap which needed to be addressed. If the UK had not ratified the 1968 Convention, there would be no Convention that covered motorists who wished to drive in 5 EU Member States, specifically Croatia, Estonia, Germany, Latvia and Lithuania. Whilst the government is keen to achieve agreements on driver licensing with EU Member States, who are also free to unilaterally continue to accept UK licences even if the UK were to leave the EU without an agreement, holding the correct format of IDP with a domestic driving licence would guarantee the licence holder's entitlement to drive outside the UK. After exit day, in 23 EU Member States, plus Norway and Switzerland a 1968

Convention IDP would be required. The 1949 Convention will continue to apply in relation to Cyprus, Ireland, Malta, and Spain.

7.3 Prior to the deposition of the UK's instrument of ratification on 28 March 2018, the 1968 Convention was subject to parliamentary scrutiny under the process laid out in the Constitutional Reform and Governance Act 2010, with a Command Paper and Explanatory Memorandum laid in Parliament in February 2018.

7.4 A UK IDP will be issued to persons who hold a full UK licence, and who can present that licence at a Post Office when they apply for their IDP. The department is not accepting provisional licences and test pass certificates.

7.5 From 1 February, the issuing of IDPs was taken over by a government service, which is operated via a contract between DVLA and the Post Office Limited. This service replaced previous private sector issuing arrangements that were offered by the RAC and the AA. Both organisations were informed in a letter from the Secretary of State for Transport dated 28 March 2018 that their authority to issue these documents would end on 31 January 2019.

7.6 The service from DVLA and the Post Office Limited, offers IDPs from 2,500 Post Offices throughout the UK in the formats specified in the 1968 Vienna Convention which is the subject of this SI. The Post Office will also issue IDPs in the formats specified in the earlier 1926 Paris Convention relating to Motor Traffic, and the 1949 Geneva Convention on Road Traffic. Where countries like the UK have signed more than one of these Conventions, the most recent common Convention is the one that will apply. For example, in relation to Vietnam the 1949 Convention will apply until 27 March 2019; on 28 March 2019, the 1968 Convention will come into force, when it will terminate and replace relations between the UK and Vietnam under the 1949 Convention.

7.7 UK motorists will continue to have the option of purchasing post-dated IDPs for up to three months in advance of travel, meaning that people can maximise the validity period of IDPs, rather than waiting to purchase IDPs on the first day of the holder's trip.

7.8 The number of branches, that IDPs are offered through means that 90% of the population in the UK live within 10 miles of an issuing branch. The branch network has been optimised to ensure a good level of availability at locations that are points of departure for UK motorists, e.g. ferry ports and airports. Because the 1968 Convention, and section 1 of the Motor Vehicles (International Circulation) Act 1952[1], provide that IDPs may only be issued to residents, the department will not be issuing IDPs at locations outside the UK. Due to the significant increase in issuing locations, the department will also not be providing a mail order or online service for the issuing of these documents at this stage, which must be held in hard copy, rather digitally as an electronic document or a smartphone app.

7.9 The department also has the option to expand the service by up to 2,000 more branches if demand requires it, meaning that 90% of the population will live within 3 miles of an IDP issuing branch.

7.10 At the point of drafting this legislation, the fee for all three formats of IDP was set at £5.50 per document, a charge which was last increased in 2004. Prior to laying this SI in parliament, a review of the costs associated with issuing was undertaken, and £5.50

[1] http://www.legislation.gov.uk/ukpga/Geo6and1Eliz2/15-16/39/section/1

was found to be an appropriate fee on a cost recovery basis with the Post Office Ltd taking the revenue to pay for the set up and issuing arrangements. No part of the £5.50 fee will be coming back as government revenue.

7.11 The National Audit Office published a report in July 2018, which predicted that drivers will need "anywhere between 100,000 and 7 million IDPs in the first year should no deal be agreed with the EU"[2]. However, it is highly unlikely that the upper number will be required as it is based on each IDP being used once. The department expects that many UK motorists would use IDPs multiple times, particularly in the case of the 1968 IDP, which is valid for three years, and which will apply to 23 EU Member States plus Norway and Switzerland. The upper limit on IDPs issued in year one, is therefore likely to be significantly lower.

7.12 If an IDP is required to be held with a driving licence when travelling outside of the UK, then it would be required by all licence holders, irrespective of the type of motor vehicle they are driving, whether that is a motorcycle, a car, a bus or coach, a van or an HGV. It also does not matter if the holder is driving a vehicle that is owned or leased in their own name, or a hired vehicle, e.g. a car used when on holiday.

7.13 It is also possible, for countries to only require an IDP if the motorist only holds an "old style" paper licence, which GB issued until July 1998. There are approximately 5 million paper licences still in circulation. If the UK were to have stayed in the EU, then paper licences would need to all be withdrawn by 2033. Northern Ireland is not affected by this, as all Northern Ireland issued licences are already in a photocard format.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument is not being made under the European Union (Withdrawal) Act but relates to the withdrawal of the United Kingdom from the European Union. This instrument relates to the ratification of an international convention, which is part of the UK government's non-negotiated contingency planning that is being made as a result of the UK leaving the European Union.

8.2 The specific element of contingency planning is the ability to ensure that UK licence holders will be able to obtain an International Driving Permit to guarantee recognition of their licence when driving in the EU and EEA after exit day. If the UK had not ratified the 1968 Vienna Convention, then in the absence of a "deal" the UK would have not had the ability to issue documents to guarantee UK licences in all member states.

9. Consolidation

9.1 This instrument amends the Motor Vehicles (International Circulation) Order 1975 ("the 1975 Order") in order to implement provisions of the 1968 Vienna Convention on Road Traffic ("the 1968 Convention") concerning International Driving Permits ("IDPs"). Because of the limited nature of the amendments, we do not plan to consolidate the 1975 Order at this time.

[2] https://www.nao.org.uk/wp-content/uploads/2017/11/Implementing-the-UKs-exit-from-the-European-Union.pdf

10. Consultation outcome

10.1 This measure was not subject to public consultation, as the 1968 Convention format IDP is simply another version of an International Driving Permit, which are already issued under the 1949 Geneva Convention and the 1926 Paris Convention.

10.2 The department carried out a public consultation from 16th May to 25th June 2018 on the introduction of Trailer Registration, which was required to ensure that the UK conformed with the requirements of the 1968 Convention. The trailer registration consultation and decision documents are available on gov.uk.

11. Guidance

11.1 The Government has published guidance on how to obtain an IDP, and where IDPs will be required on gov.uk[3]. This guidance will be regularly updated so that UK licence holders will have access to the most up-to-date information, ensuring that they can obtain the correct documents for their trip.

11.2 The department will also be working with the Foreign and Commonwealth Office to ensure that their travel advice pages will also have the correct information available

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

12.3 A full Impact Assessment has not been prepared for this instrument because the department has assessed that the estimated and additional cost to business is below £5m even in a worst-case scenario, where UK driving licences without an IDP are not recognised in EU Member States other than Ireland.

12.4 The department does not consider that a document costing £5.50 would cause significant distributional impacts, specific additional burdens on small businesses or any wider impacts. The analysis undertaken, only looked at the additional costs of procuring IDPs to maintain the status quo recognition of UK licences in the EU, so the issue of significant gross costs despite small net impacts is not relevant.

12.5 The department does not consider the need to procure IDPs as novel or contentious, as those travelling abroad are used to procuring and/or gathering documents before travel.

12.6 Having an IDP removes a potentially significant barrier to both private and professional drivers, and facilitates their travel in the EU and in the rest of the world, using well understood International Conventions as a guarantee that the UK licence will continue to be accepted. Motorists who choose not to obtain the correct IDP when they travel to a country where this document is required may be subject to enforcement as a result. This instrument ensures that the documents will be available.

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses.

[3] https://www.gov.uk/guidance/prepare-to-drive-in-the-eu-after-brexit

14. Monitoring & review

14.1 The approach to monitoring this legislation is to be limited, as this instrument relates to the ratification of an international convention, enabling the Secretary of State to charge for the issue of documents guaranteeing the recognition of UK driving licences. Where new legislative requirements are introduced because of changes made to the international conventions, these will be subject to their own monitoring requirements as appropriate.

14.2 The regulation does not include a statutory review clause. The requirement to hold an IDP when driving outside of the UK is placed upon UK motorists by other Contracting Parties to the 1968 Convention.

14.3 The fee charged for an IDP will be subject to review, to ensure that it remains proportionate, and in line with the costs associated with providing these documents to motorists. The department is planning to undertake the next review of the fee level in 5 years to ensure that it remains appropriate, and will undertake further reviews periodically.

14.4 The department undertook a review of the current fee for issuing IDP documents as a part of the work to prepare to issue the 1968 Convention format IDP. This review confirmed that the £5.50 fee for an IDP as set in 2004 remains appropriate.

14.5 When the fees are updated, a review of their impact to business will be undertaken to ensure that they continue to represent value for money.

15. Contact

15.1 Morag Rethans at the Department for Transport Telephone: 07342 089293 or email: morag.rethans@dft.gov.uk can be contacted with any queries regarding the instrument.

15.2 Rupesh Mehta for the Policy area at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.

15.3 Jesse Norman as the responsible Minister at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.