EXPLANATORY MEMORANDUM TO

THE MOTOR VEHICLES (WEARING OF SEAT BELTS) (AMENDMENT) (No 2) REGULATIONS 2015

2015 No. [XXXX]

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 the Motor Vehicles (Wearing of Seat Belts) Regulations 1993 to allow the use of enhanced Child Restraint Systems (also known as "i-size"), which conform to UNECE Regulation 129.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Context

4.1 This instrument refers to enhanced child restraints fitted in the rear seats of motor vehicles only and is to follow the "affirmative" Parliamentary procedure. A separate instrument (The Motor Vehicles (Wearing of Seat Belts by Children in Front Seats) (Amendment) Regulations 2014) that will follow the "negative" Parliamentary procedure will seek to amend the relevant legislation in order to allow enhanced child restraints to be fitted in the front seats of motor vehicles and so is laid with a separate Explanatory Memorandum.

4.2 EC Directive 2014/37/EU was adopted by the European Commission on 27 February 2014, to come into force on 19 March 2014. This Directive amends Council Directive 91/671/EEC relating to the compulsory use of safety belts and child restraint systems in vehicles, and sets a new standard for type approval of enhanced child restraint systems (UNECE Regulation 129). A Transposition note can be found at Annex 1.

4.3 Existing UK legislation mandates child restraint systems must conform to UNECE Regulation 44. This therefore prohibits the use of child restraint systems which conform to Regulation 129, preventing the attainment of additional safety benefits.

4.4 There has not been previous scrutiny of this Directive by Parliament.

5. Territorial Extent and Application

5.1 This instrument applies to Great Britain.

6. European Convention on Human Rights

6.1 Robert Goodwill MP, the Parliamentary Under Secretary of State for Transport has made the following statement regarding Human Rights:

"In my view the provisions of the Motor Vehicles (Wearing of Seat Belts) (Amendment) Regulations 2014 are compatible with the Convention rights."

7. Policy background

- What is being done and why

7.1 The number of road user fatalities in Great Britain has been falling for several decades. Sustaining the recent reductions and making further progress in reducing road deaths and serious injuries is a key priority for the Government's Strategic Framework for Road Safety published in May 2011. One of the particular challenges identified within the framework is to ensure the continued development of safer vehicles.

7.2 The existing UNECE regulation governing child restraint construction came into force in 1981. European Directive 2003/20/EC mandated the use of an appropriate child restraint system for children up to 12 years of age or 150cms in height (135cms in GB). These restraint systems were also required to be approved to UNECE Regulation 44.03 or subsequent amendments. The 03 series of amendments came into force in 1995 and it follows that most, if not all, child restraint systems in use currently will be of this standard.

7.3 The greatest safety benefit from the existing standard has therefore been obtained, and to further improve safety of child restraint systems a new standard has been developed. The new standard is UNECE Regulation 129.

7.4 The policy objective is to reduce the number and seriousness of injuries to child vehicle occupants by the maximum feasible amount, whilst keeping any additional burden to industry or vehicle users to a proportionate level and ensuring that any potential environmental dis-benefits are minimised.

7.5 UNECE Regulation 129 is intended to provide additional safety benefits over and above existing standards. The regulation sets provisions for a number of technical enhancements, including:-

- Restraint categorisation – Amends the method in which restraints are categorised from one based on a child's mass to one based on their height.
- Crash test Dummy – Adopts a new type of child crash test dummies which are an improvement on the existing series of dummies.
- Test Bench – Modifies the existing test bench to ensure that it is more representative of the modern day vehicle fleet.
- Side impact dynamic test – Introduces a new side impact test.
- Travelling orientation – Mandates a rear facing orientation for restraint systems approved for occupants up to the age of 15 months.

- Consolidation

7.6 The Department has no current plans to consolidate the Motor Vehicles (Wearing of Seat Belts) Regulations 1993.

8. Consultation outcome

8.1 In January and February 2014 the Department for Transport, in conjunction with the Department of the Environment in Northern Ireland (DOENI), conducted a small-scale consultation to industry related representatives on the proposed amendment of regulations to allow the use of child restraint systems in the United Kingdom. Although this amendment applies only to Great Britain, the consultation was conducted jointly as most consultees were the same for both departments. Responses were received from industry bodies as well as consumer and safety groups.

8.2 On the question of any issues in implementing UNECE Regulation 129, respondents were generally of the view that some form of guidance would be necessary to provide consumers with advice on the use of products conforming to Regulation 129 and Regulation 44, and in relation to any transition period. The advice should be consistent from retailers, industry, safety bodies and statutory bodies, and include reference to:

- the continued use of existing child restraint systems which comply with Regulation 44;
- the benefits of purchasing new enhanced child restraint systems which comply with Regulation 129;
- why some new child restraint systems do not yet comply with Regulation 129;
- which vehicle makes and models Regulation 129 child restraint systems are approved for use in (or not).

The department agreed to work with relevant organisations to publish advice and guidance in advance of any changes.

8.3 The responses considered the main advantage to be the improved safety afforded when products conforming to Regulation 129 are used. The disadvantages were considered to relate to the potential confusion caused by having products that may conform to different Regulations (129 and 44), and which one should be used. It was also suggested that there was the possibility of misuse of products used in vehicles or seating positions that are not designed to accept such products. This has been taken in to account in the guidance.

8.4 The responses also highlighted that in the event of no regulatory change, consumers would be able to buy, but not legally able to use products conforming to Regulation 129, even though they are potentially safer. The legal implications regarding liability in the event of injury to a child using a product conforming to Regulation 129 was also raised. It was also emphasised that the UK government was involved in development of the UNECE Regulation, leaving the Government open to criticism if domestic legislation was not amended.

8.5 There was unanimous support from stakeholders for amending the legislation to allow use of child restraint systems conforming to UNECE Regulation 129.

9. Guidance

9.1 The Department currently provides information for consumers on suitable child restraints on GOV.UK as well as on the Think! website. These will be updated prior to any regulatory change so consumers will be aware of the changes and able to make informed decisions on which child restraint system is suitable for their child. The Department will work with other organisations to ensure this advice is consistent and to publicise the changes being made.

10. Impact

10.1 The impact on business, charities or voluntary bodies is limited. Manufacturers are likely incur additional costs in product development, product testing and production, over and above CRS designs conforming to Regulation 44. These costs would in most cases be passed on to consumers. However, manufacturers have already developed such systems although these are currently prohibited from being used in the UK. Until UK legislation is amended manufacturers will be at a competitive disadvantage selling to consumers, and domestic consumers at a safety disadvantage as the enhanced products can not be used in the UK. Products conforming to Regulation 44 will continue to be permissible.

10.2 The impact on the public sector is nil.

10.3 An Impact Assessment is attached to this memorandum and will be published alongside the Explanatory Memorandum on www.legislation.gov.uk.

11. Regulating small business

11.1 The legislation applies to small business. However this instrument is effectively deregulatory, as existing standards continue alongside the new one. Manufacturers can continue to design child restraint systems to Regulation 44 or can design them to the new Regulation 129.

12. Monitoring & review

12.1 The Department will continue to be involved in UNECE committees in developing further amendments to Regulation 129, as we have with Regulation 44.

13. Contact

13.1 Graeme Mateer at the Department for Transport Tel: 020 7944 2017 or email: graeme.mateer@dft.gsi.gov.uk can answer any queries regarding the instrument.

Annex 1

Transposition Note

Transposition note for the implementation of EU Directive 2014/37/EU of 27 February 2014 amending Council Directive 91/671/EEC relating to the compulsory use of safety belts and child restraint systems in vehicles.

The Motor Vehicles (Wearing of Seat Belts) (Amendment) (No 2) Regulations 2015 do what is necessary to implement the Directive, by making consequential changes to domestic legislation to ensure its coherence in the area to which they apply.

Article	**Purpose**	**Implementation**	**Responsibility**
Article 1	Requires that the use of child seats conforming to UNECE Regulation 129, in addition to existing standards be allowed.	Regulations 3, 4 and 5	Secretary of State