EXPLANATORY MEMORANDUM TO

THE DRIVING STANDARDS AGENCY AND THE VEHICLE AND OPERATOR SERVICES AGENCY (MERGER) (CONSEQUENTIAL AMENDMENTS) ORDER 2014

2014 No. 467

and

THE DRIVING STANDARDS AGENCY AND THE VEHICLE AND OPERATOR SERVICES AGENCY (MERGER) (CONSEQUENTIAL AMENDMENTS) REGULATIONS 2014

2014 No. 480

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 instruments

2.1 The Driving Standards Agency and the Vehicle Operator Services Agency (Merger) (Consequential Amendments) Order 2014 and the Driving Standards Agency and the Vehicle and Operator Services Agency (Merger) (Consequential Amendments) Regulations 2014 (the amending instruments) make amendments to secondary legislation in consequence of the merger of the Driving Standards Agency (DSA) and the Vehicle and Operator Services Agency (VOSA) to establish the Driver and Vehicle Standards Agency (DVSA). DVSA will assume the responsibilities and functions previously undertaken by DSA and VOSA from 1st April 2014.

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

3.1 None

4. Legislative Context

4.1 The amending instruments make amendments to subordinate legislation in consequence of the merger of the DSA and VOSA to form the DVSA. The instruments being amended by the Driving Standards Agency and the Vehicle Operator Services Agency (Merger) (Consequential Amendments) Order 2014 (the 2014 Order) are the Regulation of Investigatory Powers (Directed Surveillance and Use of Covert Human Intelligence Sources) Order 2010 (S.I. 2010/521), the Regulation of Investigatory Powers (Authorisations Extending to Scotland) Order 2007 (S.I. 2007/934) and the Proceeds of Crime Act 2002 (References to Financial Investigators) Order 2009 (S.I.

2009/975). The instruments amended by the Driving Standards Agency and the Vehicle and Operator Services Agency (Merger) (Consequential Amendments) Regulations 2014 (the 2014 Regulations) are the Public Service Vehicles (Conditions of Fitness, Equipment, Use and Certification) Regulations 1981 (S.I. 1981/257), the Motor Vehicles (Tests) Regulations 1981 (S.I. 1981/1694), the Goods Vehicles (Plating and Testing) Regulations 1988 (S.I. 1988/1478), the Road Vehicle Lighting Regulations 1989 (S.I. 1989/1796), the Motor Vehicles (Driving Licences) Regulations 1999 (S.I. 1999/2864), the Road Vehicles (Registration and Licensing) Regulations 2002 (S.I. 2002/2742), the Motor Cars (Driving Instruction) Regulations 2005 (S.I. 2005/1902) and the Working Time Regulations 1998 (S.I. 1998/1833).

4.2 The majority of the amendments substitute references to VOSA or DSA with a reference to DVSA.

4.3 Article 2 of the 2014 Order amends the Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010 (the 2010 Order). The 2010 Order lists the prescribed officers within listed organisations who can authorise directed surveillance activity and the deployment of covert human intelligence sources. Both VOSA and DSA are included under the 2010 Order. VOSA can use both surveillance techniques and DSA can use only directed surveillance techniques. In DSA the Chief Executive must authorise directed surveillance activity, in VOSA a number of prescribed offices are listed who can authorise both techniques. The amendments to the 2010 Order preserve this distinction by making provision as regards who within the DVSA can grant authorisations relating to exercise of functions of the former DSA or the former VOSA. This to ensure that there is no expansion or relaxing of the current regime. Article 4 makes transitional provision to ensure that any authorisations granted by either VOSA or DSA before 1st April 2014 continue unaffected by the change.

4.4 In addition, article 4 of the 2014 Order amends the Regulation of Investigatory Powers (Authorisations Extending to Scotland) Order 2007, this amendment substitutes DVSA for the reference to DSA.

4.5 Article 5 of the 2014 Order amends the Proceeds of Crime Act 2002 (References to Financial Investigators) Order 2009 (the 2009 Order). The 2009 Order sets out the powers that can be exercised by an accredited financial investigator under the Proceeds of Crime Act 2002 and who is an accredited financial investigator for the purpose of the exercise of these powers. The description of accredited financial investigators is made by reference to their being a member of staff of a particular department/body and, for the exercise of certain powers, it also includes reference to having attained a minimum post grading and/or having undertaken training provided by the National Policing Improvement Agency on the exercise of those powers. VOSA is one of

the bodies listed and the Order is amended to replace VOSA with DVSA.

4.6 The Working Time Regulations 1998 (the 1998 Regulations) are amended by regulation 9 of the 2014 Regulations. VOSA is an enforcement authority for the purposes of the 1998 Regulations. Regulation 9 of the 2014 Regulations amends regulation 28 of the 1998 Regulations to substitute the references to VOSA with a reference to the DVSA. Regulation 9(5),(6), (7) and (8) makes transitional provision to ensure that after 1st April 2014 any inspector appointed by VOSA is deemed to have been appointed by the DVSA and that any enforcement action by a VOSA inspector prior to 1st April 2014 is treated as having been taken by the DVSA or a DVSA inspector.

4.7 The Motor Cars (Driving Instruction) Regulations 2005 are amended by regulation 8 of the 2014 Regulations. The official title of a driving instructor in regulation 18(1) of the 2005 Regulations is amended to "Driver and Vehicle Standards Agency Approved Driving Instructor (Car)" and the prescribed form of licences, certificates of registration and badges as set out in Schedules 4, 5 and 6 of the 2005 Regulations are updated to reflect the new Agency. Regulation 8(4) provides that until 1st June 2014, the prescribed form of licences and certificates of registration is as set out both in the 2005 Regulations and in Schedule 2 to the 2014 Regulations. This is to enable the DVSA to exhaust its remaining stock of documents before issuing the new form of documents and to provide sufficient lead in time for the printers to supply the new form of documents. Regulation 8(5) makes saving provision in relation to any unexpired licences and certificates of registration to avoid the need for existing holders of these documents to replace them before their expiry date. Regulation 8(6) of the 2014 Regulations provides for holders of badges in the form prescribed in Schedule 6 of the 2005 Regulations who have displayed or worn their badge prior to 1st April 2014 to continue to do so and so avoid the need to replace their existing badge with the new prescribed form of badge. Any badges first worn or displayed after 1st April must be in the form prescribed in the 2014 Regulations.

5. Territorial Extent and Application

5.1 The amendments being made have the same territorial extent as the instruments being amended.

5.2 The Driving Standards Agency and the Vehicle Operator Services Agency (Merger) (Consequential Amendments) Order 2014 extends to the whole of the United Kingdom.

5.3 The Driving Standards Agency and the Vehicle Operator Services Agency (Merger) (Consequential Amendments) Regulations 2014

extends to Great Britain except that the amendment to the Road Vehicles (Registration and Licensing) Regulations 2002 extends to the whole of the United Kingdom.

6. European Convention on Human Rights

6.1 As the instruments are subject to negative resolution procedure and do not amend primary legislation, no statement is required.

7. Policy background

- What is being done and why

7.1 The Driving Standards Agency (DSA) is responsible under the Road Traffic Act 1988 for setting the accepted public standard for all driving tests in GB and for the qualification and training including ongoing quality assurance of Driving Examiners delivering those tests. The DSA also regulates driver trainers delivering on-road driver training. The DSA uses surveillance to investigate individuals suspected of taking multiple driving tests using bogus identities and preventing unregistered driving instructors making profit from giving driving instruction. Maintaining the integrity of the driving test system ensures that the public is protected from untested and unqualified drivers thereby helping to reduce the number of fatalities on GB roads.

7.2 The Vehicle and Operator Services Agency (VOSA) provides a range of licensing, testing and enforcement services with the aim of improving the roadworthiness standards of vehicles and ensuring the compliance of operators and drivers with road traffic legislation.

7.3 On 20th June 2013, Transport Minister Stephen Hammond announced that a single executive agency would bring together driver testing and training and vehicle standards functions that are currently provided separately by the DSA and the VOSA. The merger of the DSA and the VOSA to form the DVSA takes effect from 1st April 2014. As a consequence of this, it is necessary to make amendments to references to VOSA and the DSA in secondary legislation so that the DVSA can continue the operations previously carried out by the two separate agencies.

7.4 Trading funds set up under the Government Trading Funds Act 1973 currently finance the services provided by VOSA and DSA. Those services will, from 1st April 2014, be provided by DVSA. For a period of time DVSA will provide those services under the two existing trading funds but it is expected that in 2015 a new single trading fund will be put in place.

8. Consultation outcome

8.1 The Department carried out a public consultation in relation to amendments to instruments where there is a requirement to consult. This took place from 28th November 2013 to 4th January 2014 and invited views on proposed amendments to legislation to replace references to DSA and VOSA with DVSA. The consultation document can be found at https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/261301/consultation-document.pdf

8.2 Twenty two responses were received to that consultation; fourteen responses from private individuals and eight from organisations of which the majority were driver trainers, with one response from a Court service. None of those responding objected to the merger or the change in name.

9. Guidance

9.1 Not applicable as the amendments contained in the instruments are consequential and do not impose any new obligations.

10. Impact

10.1 The impact on business, charities or voluntary bodies is nil.

10.2 No formal impact assessment has been conducted. There will be no costs associated from the amendments made to this Order.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 Not applicable..

13. Contact

Mandy Lynch at the Driver and Vehicle Standards Agency, Policy Unit, Tel: 0115 9366097 or email: mandy.lynch@dsa.gsi.gov.uk can answer any queries regarding the instruments.