EXPLANATORY MEMORANDUM TO THE

THE MOTOR CARS (DRIVING INSTRUCTION) (AMENDMENT) (No.2) REGULATIONS 2004

2004 No. 3159

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

2. Description

2.1 These Regulations amend the Motor Cars (Driving Instruction) Regulations 1989 to include a computer-based Hazard Perception Testing (HPT) assessment in the continued ability and fitness test for existing driving instructors that did not complete such an assessment as part of the registration process.

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

3.1 None.

4. Legislative background

4.1 Part 5 of the Road Traffic Act 1988 ("the Act") provides for a registration scheme for those giving paid instruction in the driving of a motor car. Section 132 provides that regulations may make provision generally in respect of examinations and tests for those applying to join the statutory scheme and have their name entered onto the Register of Approved Driving Instructors. Section 134 provides that regulations may alter or add to the conditions as to which the Registrar is required to be satisfied for the retention or removal of a name in the register.

4.2 The HPT assessment has been a part of the qualifying examination for admission to the register of approved driving instructors since November 2002. The HPT assessment is part of the theory test that candidates must pass in order to obtain a licence to drive a car. However, ADIs whose names were already on the register in November 2002 were not required to take the HPT assessment. The changes made by these regulations will require ADIs to pass the HPT assessment by 31 December 2006. If an ADI has not passed the HPT assessment, the Registrar can refuse to retain the ADI's name on the register of approved instructors, and can take steps to remove the ADI's name from the register, from 1 January 2007.

4.3 The changes made by these regulations are intended to bring the ADI qualification and supervision process up-to-date with current practices in driver testing and health and safety. It is expected that the standards of instruction will rise as a result, which will in turn enhance the quality of tuition offered to the general public.

4.4 The regulations will require instructors to present their ADI certificate as proof of identity when taking tests. This procedure is considered important to prevent impersonation of candidates.

5. Extent

5.1 This instrument applies to Great Britain.

6. European Convention on Human Rights

6.1 None.

7. Policy background

7.1 The policy objective for the provision of a registration scheme for those giving paid driving instruction is to increase road safety by ensuring that those offering tuition are competent. The reason for the introduction of an HPT assessment is to ensure that all of those registered to give instruction have demonstrated their ability to pass the assessment to the level of those entering the profession. Those who entered the profession after HPT was added to the ADI qualifying examination in November 2002 will take the assessment. ADIs who have taken the test in other circumstances (e.g. the LGV instructor scheme) are also exempt.

7.2 Section 195(2) of the Act requires the Secretary of State to consult representative organisations before making regulations under Part V of the Act. In December 2001, consultees were asked whether ADIs should be required to pass HPT. Respondents were broadly in favour of both proposals. Those representing the ADI industry, however, presented different views in respect of new and existing ADIs. They supported a mandatory HPT assessment for ADIs entering the profession but not for existing ADIs.

7.3 In April 2003, we reiterated the question about the principle of assessing existing ADIs. We also sought views on the number of attempts which would be allowed, within what period, and whether a multiple-choice element should also be included. The ADI industry again opposed the introduction of mandatory HPT assessments for existing ADIs. However, other respondents again supported the proposal.

7.4 The decision was taken to introduce a HPT assessment for existing ADIs. However, DSA sought a dialogue with ADI representative bodies in an effort to address legitimate concerns. This culminated in an agreement which was reached at a meeting in July 2004. The agreement was that existing ADIs should be allowed an unlimited number of attempts, between January 2005 and December 2006. The assessment would comprise solely HPT and no multiple-choice element. The first attempt would attract no fee but there would be a charge for subsequent tests. The Registrar would, other than in exceptional circumstances, seek to remove from the Register any ADI that had not successfully completed the assessment by December 2006.

7.5 Whilst the changes are not considered to be legally important, they were previously politically sensitive. A number of MPs raised concerns about this issue, leading to an Adjournment Debate in the House of Commons in January 2004. The July agreement has, however, largely been accepted by ADIs which we believe has reduced the political sensitivity of this measure.

8. Impact

8.1 A draft Regulatory Impact Assessment (RIA) was produced to accompany the consultation paper on the proposals. A final RIA has been produced to accompany the Statutory Instrument when it is laid. A copy is attached to this memorandum.

9. Contact

9.1 The official within the Department for Transport who can be contacted with any queries in relation to this Statutory Instrument is Robin Massey of the Driving Standards Agency. Telephone: 0115 901 5916 or e-mail robin.massey@dsa.gsi.gov.uk.

1 December 2004 Department for Transport