EXPLANATORY MEMORANDUM TO

The Motor Vehicle Testing (Amendment No. 2) Regulations (Northern Ireland) 2013

S.R. 2013 No. 286

The Goods Vehicle Testing (Amendment No. 2) Regulations (Northern Ireland) 2013

S.R. 2013 No. 285

1. Introduction

1.1. This Explanatory Memorandum has been prepared by the Department of the Environment to accompany the Statutory Rules (details above) which are laid before the Northern Ireland Assembly.

2. Purpose

2.1. The purpose of the first Statutory Rule is to amend regulation 14 of, and Schedule 3A to, the Motor Vehicle Testing Regulations (Northern Ireland) 2003 to provide additional information on certificates and notices to facilitate the improvement in reporting of roadworthiness testing.

2.2. The purpose of the second Statutory Rule is to amend regulation 16 of, and substitute Schedules 4 and 5 to, the Goods Vehicles (Testing) Regulations (Northern Ireland) 2003 to provide additional information on certificates and notices to facilitate the improvement in reporting of roadworthiness testing.

3. Background

3.1. The Regulations support the implementation of the Roadworthiness Directive 2010/48/EU which states that compulsory tested items includes a requirement that the vehicle operator or driver must be notified in writing of the defects, the result of the test and the legal consequences. It also requires additional information to be displayed on test certificates such as Vehicle Identification Number, country symbol of state of registration, vehicle class if available etc. The aim is to ensure that the correct tests and standards are applied, to enable the results of the test to be recorded and to enable enforcement of other legal requirements.

4. Consultation

4.1. Consultation was considered unnecessary as the amendment has no bearing on the Department's current policy for test certificates and will not create any burdens for vehicle owners. Instead the Department communicated with key stakeholders within the road and passenger transport industries and no comments were received.

5. Equality Impact

5.1. In accordance with its duty under section 75 of the Northern Ireland Act 1998, the Department conducted a screening exercise on the proposals and

concluded that they do not have significant implications for equality of opportunity. The measures will not affect any group disproportionately.

6. Regulatory Impact

6.1. A Regulatory Impact Assessment of the effect of these Regulations will have on the costs of business is available from the Department of the Environment at www.doeni.gov.uk/roadsafety and is attached at Annex A.

7. Financial Implications

7.1. Not applicable.

8. Section 24 of the Northern Ireland Act 1998

8.1. The proposed Regulations are not incompatible with section 24 of the Northern Ireland Act 1998.

9. EU Implications

9.1. A Transposition Note is not required as the required changes to test certificates is considered a residual element and that the Department for Transport has already advised the Commission that the Directive has been transposed.

10. Parity or Replicatory Measure

10.1. Not applicable as the Regulations are not replicating any GB SI.

11. Additional Information

11.1. Not applicable.

Annex A

Final Regulatory Impact Assessment

1. Title of Proposal

Changes to the Vehicle Test Certificate required by Roadworthiness Directive 2010/48/EU through the following amending Regulations:

Goods Vehicles (Testing) (Amendment No.2) Regulations (Northern Ireland) 2013

Motor Vehicle Testing (Amendment No. 2) Regulations (Northern Ireland) 2013

2. Purpose and intended effect of measure

(i) Objective

This draft Regulatory Impact Assessment supports the implementation in Northern Ireland of Commission Directive 2010/48/EU of 5 July 2010 adapting to technical progress Directive 2009/40/EC of the European Parliament and of the Council on roadworthiness tests for motor vehicles and their trailers ("the Directive").

In particular, paragraph 3 of Annex II of the Directive ("ANNEX II - Items to be Compulsory Tested") requires that the vehicle operator or driver must be notified in writing of the defects, the result of the test and the legal consequences.

The objective of this proposal is to make a technical amendment to the existing Motor Vehicle Testing Regulations (NI) 2003 ("Motor Vehicle Regulations") and the Goods Vehicles (Testing) Regulations (NI) 2003 ("Goods Vehicles Regulations"). The objective is also to ensure legal and administrative provisions are in place for all vehicles to prevent an infringement of the Directive which states that paragraph 3 of Annex II shall come into force by 31 December 2013.

(ii) Background

The power in Northern Ireland to amend legislation dealing with roadworthiness test certificates lies with the Department and is contained in the Road Traffic (NI) Order 1995. The motor vehicle test (MOT) is provided for by the Motor Vehicle Regulations and goods vehicle test by the Goods Vehicles Regulations.
The Directive states that roadworthiness certificates issued in the case of mandatory periodic vehicle tests shall cover at least the following elements:

(1) VIN number
(2) Registration Plate Number
(3) Country symbol of state of registration
(4) Place and date of test
(5) Odometer reading at time of test if available
(6) Vehicle class if available
(7) Identified defects and its category
(8) Overall assessment of the vehicle
(9) Date of next periodical test (if this information is not provided by other means)
(10) Name of inspection organisation and signature or identification of the inspector responsible for the test.

Items 1, 3, 6, 7, 8 and 9 are not currently included on vehicle test certificates in Northern Ireland. Item 5 is only recorded for motor vehicles and is not recorded for Heavy Goods Vehicles or buses.

Vehicle test certificates issued by the Driver and Vehicle Agency (DVA) in Northern Ireland provide for the mandatory display of the certificates on vehicles. To accommodate this, DVA certificates consist of two separate parts. Part One is in perforated disc format so it can be displayed on the vehicle windscreen and Part Two is a certificate. In addition to printing vehicle test certificates, DVA also has the ability to print an ‘Advisory notice’ for customers that pass the vehicle test recording any minor defects noted during the vehicle test.

Currently in Northern Ireland, taxis and buses undergo a public service vehicle (PSV) test, and if the vehicle successfully passes this test, they are issued with a PSV licence.

For taxis, a vehicle inspection notice is also issued to confirm that the vehicle has met the statutory requirements relating to construction and condition of motor vehicles. For buses, a certificate is produced with details of the vehicle test. Neither of these documents are prescribed in legislation but rather are handled administratively by DVA.

Minor amendments could be made to the advisory notice, taxi vehicle inspection notice and the bus certificate in order to fully meet the requirements of the Directive.

(iii) Intended Effect

The intended effect of providing additional certain core information on certificates and notices is to facilitate the improvement in reporting of roadworthiness testing. This will help cover identification of the vehicle in order to ensure that the correct tests and standards are applied, to enable the results of the test to be recorded and to enable enforcement of other legal requirements.

(iv) Risk assessment

The Department is obliged under European Community (EC) law to implement the Directive. Failure to do so would be a breach of such legal obligations and would expose the UK, as Member State, to infraction proceedings and potentially Northern Ireland to significant financial penalties.

Failure to providing this new additional information on roadworthiness certificates would also mean that the objectives of the Directive would not be achieved in Northern Ireland.

3. Options

Option 1: Do nothing

This is not a viable option as Northern Ireland would not be compliant with the Directive leading to potential infraction proceedings, the result of which would be a proportionate financial fine.

Option 2: Redesign and prescribe new vehicle test certificates

The current vehicle test certificate could be redesigned to meet the needs of the Directive. This would potentially mean that the certificate could be around the size of an A4 page and still encompass a perforated disc (recording that the eligibility date) suitable for display on a vehicle. Vehicle test certificates could also be prescribed for buses and taxis in legislation.

Option 3: Amend the vehicle test notices and certificates

The current vehicle test certificate could continue to be issued as part one and two in a single document as at present. Amendments could be made to the vehicle test advisory notice to include the additional items required by the

Directive and these could be issued to customers as a test report along with the pass certificate. For buses and taxis, amendments could be made administratively to the taxi vehicle inspection notice and the bus certificate to include the additional items and these could be issued to the drivers of the respective public service vehicles.

4. Benefits

Option 1: Do nothing

A benefit of not implementing the Directive through amending Regulations is that there would be no change to the legislative provisions. However as the amendments are purely technical and do not change the overarching policy measure for vehicle tests in Northern Ireland, this benefit seems unproductive. Also NI would not be in line with the requirements of the Directive.

Option 2: Redesign and prescribe new vehicle test certificates

If the Department undertook the option completely to redesign the current vehicle test certificate for goods vehicles and motor vehicles to meet the needs of the Directive, significant changes would be required to the current vehicle test certificate layout and size in order to accommodate the new additional information requirements. If the Department also introduced a vehicle test certificate for buses and taxis, this would require significant work and consultation with the both industries. This would be a major change and could potentially delay the implementation of the Directive. There would also need to be significant legislative amendments to provide for the redesign of current vehicle test certificates and the introduction of new test certificates for public service vehicles. This requirement needs to in place by 31 December 2013 and implementing the Directive via this method could be deemed as ‘gold-plating’. Also, given that there is likely to be significant associated costs in terms of adapting IT and printing resources to facilitate this option, there is no clear benefits in proceeding with this option.

Option 3: Amend the vehicle test notices and certificates

If the Department amended the vehicle test advisory notice for goods and motor vehicles and if DVA amended the taxi vehicle inspection notice and the bus certificate to include the additional items required by the Directive, this would be easier to implement. There is already the ability to produce an additional test document in addition to the current certificates and notices and this would not require major changes to the IT and printing structures already in place. This would help to reduce any additional costs for amending the aforementioned systems. Also implementing the changes via this method would facilitate the Department in complying with the requirements of the

Directive by 31 December 2013 and would only require some limited legislative amendments to domestic legislation and some minor administrative changes to the bus certificate and taxi notice currently issued. This option would also help to maintain the ability for the Department to meet future European requirements.

5. Costs

Option 1: Do nothing

This would leave Northern Ireland potentially subject to infraction proceedings, and consequently a proportionate financial fine from the EU Commission.

Option 2: Redesign and prescribe new vehicle test certificates

This option has significant additional cost implications and would also require major legislative amendments and considerable changes to the IT systems and printing software. There would also be costs associated with the redesign of the vehicle test certificates. It is difficult to estimate what the exact costs of implementing these changes would be however, a piece of work undertaken for DVA in relation to changes similar to those proposed came in at around £30k.

There would also need to be a consultation exercise with the respective stakeholders and industries which would create even more costs in terms of resources but also time given that the Directive must be transposed by 31 December 2013. It would be difficult to implement the Directive in time if this option were taken forward. However, the Department is committed to considering the introduction of vehicle test certificates for buses and taxis in legislation in the future.

Option 3: Amend the vehicle test notices and certificates

This option has still has cost implications but a large proportion the costs detailed in option 2 would be avoided. The new information requirements would still need to be to be installed in the IT systems but this, in comparison with the work to be undertaken in option 2, could be undertaken relatively easily. Again, it is difficult to estimate the exact costs but similar work has been completed for DVA at approximately £7k. Also by implementing via this option means that the Directive could be transposed by 31 December 2013.

6. Small Business Impact Test

The Department does not consider that there will be a significant cost impact on the small business sector particularly for those who utilise goods vehicles or operate under a PSV licence. The associated costs in implementing the amending Regulations or adapting the IT systems are not significant and it is unlikely that this cost will be passed to those applying for a vehicle test.

7. Enforcement and Sanctions

Responsibility for enforcement would rest with the Department which is responsible for ensuring that all vehicle testing legislation is complied with.

Under Article 63 of The Road Traffic (NI) Order 1995 (“the 1995 Order”), a person responsible for a motor vehicle for which no test certificate has been issued is guilty of an offence.

Under Article 69(2)of the 1995 Order, a person responsible for a goods vehicle without a goods vehicle test certificate in force, is guilty of an offence.

The Department has powers to stop and inspect taxis, buses and coaches used on NI roads, even whilst carrying passengers for a number of checks including roadworthiness and having a valid PSV licence.

In relation to buses and coaches, enforcement powers are contained in the 1995 Order and the Transport Act 1967. The authority to stop and detain taxis is provided under the Road Traffic (NI) Orders 1981 and 1995.

Enforcement would continue to be carried out by DVA on behalf of the Department.

8. Other Impact Assessments

An equality screening exercise has been carried out and no equality implications have been identified. There are also no human rights, environmental, rural or health issues involved in relation to this proposed measure and it will have no impact on development, sustainable or otherwise.

9. Monitoring and Review

The Department, in liaison with DVA, will monitor the operation of the amending Regulations and administrative changes to assess if these are delivering the anticipated benefits.

10. Consultation

This is a technical amendment in order to meet the needs of the Directive. This amendment has no bearing on the Department's current policy for roadworthiness certificates. Therefore the Department deems that it is not necessary to undertake a public consultation in relation to this issue.

The Department has liaised closely with DVA on the practical implementation of the Directive's requirement and has agreed the most pragmatic approach for its transposition into Northern Ireland by the deadline of 31 December 2013. The Department has also communicated to key stakeholders within the road and passenger transport industries of the additional information that will be provided on future vehicle certificates and notices. The Department received no comments from the key stakeholders in response to its letter.

On 24 October 2013, the Department also informed the Environment Committee of its intention to make legislative amendments by way of a SL1 letter in advance of the legislation being implemented. The Committee confirmed that it was content for the Department to proceed in making the Rules.

11. Summary and Recommendation

The Department is committed to proceeding with applying these amendments to the Motor Vehicle Testing Regulations (NI) 2003 and Goods Vehicles (Testing) Regulations (NI) 2003. The Department shall also instruct DVA to carry out the necessary administrative changes to the bus certificate and taxi notice.

12. Declaration

"I have read the Regulatory Impact Assessment and I am satisfied that the benefits justify the costs."

Signed Iain Greenway

Date 3rd December 2013

Contact Point

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