EXPLANATORY MEMORANDUM TO

THE MOTOR VEHICLES (ACCESS TO DRIVER LICENSING RECORDS) REGULATIONS (NORTHERN IRELAND) 2011

2011 No. 432

1. Introduction

1.1. This explanatory memorandum has been prepared by the Department of the Environment to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.

1.2. The Statutory Rule is made under Article 19I(2) of the Road Traffic (Northern Ireland) Order 1981 and is subject to the negative resolution procedure.

2. Purpose

2.1. The purpose of the Statutory Rule ("SR") covered by this Memorandum is to determine the purposes for which the Police Service of Northern Ireland ("PSNI") and other specified persons may use driver licensing information held by the Department in the prevention, detection and prosecution of road traffic offences.

2.2. A Commencement Order, made at the same time as this SR, will commence Article 36 of the Road Traffic (Northern Ireland) Order 2007, which will bring into effect Article 19I of the Road Traffic (Northern Ireland) Order 1981. This will grant access to driver licensing information held by the Department to the PSNI and other police forces in Great Britain ("GB").

3. Background

3.1. At present in Northern Ireland there is no statutory basis for the release of driver licensing information held by the Department to the PSNI or other police forces in GB.

3.2. The PSNI currently has access to driver licensing information relating to GB licence holders and the vehicles database. However, an anomaly exists in that the PSNI has no direct access to Northern Ireland driver licensing information held by the Department's Driver and Vehicle Agency ("DVA") and may only be provided with information on a case by case basis following a written application.

3.3. This restriction on disclosure has limitations as it does not permit the PSNI to conduct full roadside enquiries and may assist a person who is disqualified from driving or who is not entitled to drive a certain category of motor vehicle in evading detection. This legislation will ensure that police forces throughout the United Kingdom have similar levels of access to both the GB and NI drivers databases.

4. Consultation Outcome

4.1. A consultation exercise was carried out by the Department and although the responses were limited there was broad support for the proposed introduction of the legislation.

4.2. On the recommendation of the Information Commissioner the Department carried out a Small-Scale Privacy Impact Assessment and, while it was considered that a full Privacy Impact Assessment was not required, it was agreed that the Department will introduce a data sharing agreement, which will define the data to which access may be granted, and the necessary security provisions to protect privacy and data security before the policy comes into effect.

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. In light of this the Department considers that an equality impact assessment is not necessary.

6. Regulatory Impact

6.1. A partial Regulatory Impact Assessment ("RIA") was carried out during development of the proposed legislation and was included in the public consultation document. It was concluded that a full RIA was not necessary as there will be no impact on business or the voluntary sector.

7. Financial Implications

7.1. There are no financial implications as the only costs related to the proposal are minimal and there are no costs to industry or driving licence holders.

8. Section 24 of the Northern Ireland Act 1998

8.1. The Department has considered the matter of Convention Rights and Community Law and is satisfied that the proposed legislation is compatible with section 24 of the Northern Ireland Act 1998.

9. EU Implications

9.1. Not applicable.

10. Parity or replicatory measure

10.1. The legislation replicates provisions already in place in GB and will ensure that a consistent approach is taken across the whole of the United Kingdom. This is in line with the Department's current practice of mirroring GB road traffic legislation where possible/appropriate.

11. Additional information

11.1. None