EXPLANATORY MEMORANDUM TO

THE MOTOR VEHICLES (ACCESS TO DRIVER LICENSING RECORDS) REGULATIONS (NORTHERN IRELAND) 2022

2022 No. 293

1. Introduction

1.1. This Explanatory Memorandum has been prepared by the Department for Infrastructure to accompany the Regulations (details above) which are laid before the Northern Ireland Assembly.

1.2. The Statutory Rule is made under Articles 19I and 218 of the Road Traffic (Northern Ireland) Order 1981 ("the 1981 Order") and is subject to the negative resolution procedure.

2. Purpose

2.1. The purpose of these Regulations is to further provide for the making available of driver licensing records to authorities in other countries or territories that are responsible for the regulation of drivers.

2.2. Access to driver licensing records may only be provided where an agreement with the United Kingdom is in place for the sharing of such information or where a country or territory has been designated for the purpose of licence exchange under Article 19D(2) of the 1981 Order. In addition, access can only be made available for the purpose of the discharge of responsibilities for the regulation of drivers or vehicles.

3. Background

3.1. Section 49(2) of the Road Safety Act 2006 ("the 2006 Act") provides for the Department of the Environment (DOE) to make any information held by it for the purposes of the licensing of drivers available to the authorities of any country or territory outside the United Kingdom with responsibility under the law of that country or territory for the regulation of drivers or vehicles. The information must be required and used by them in the discharge of that responsibility.

3.2. The Departments Act (Northern Ireland) 2016 provided for the restructuring of Government Departments. As part of that restructuring DOE was dissolved. The subsequent Transfer of Functions Order (Northern Ireland) 2016 ("the 2016 Order") included provision to reassign the primary legislation and functions of the former DOE to three separate Departments, i.e. – Department for Infrastructure (DfI), Department for Communities and the Department of Agriculture, Environment and Rural Affairs.

3.3. Although road traffic legislation, including statutory provision relating to the driver licensing function, was transferred to DfI by the 2016 Order, some doubt has recently been expressed about the effectiveness of the transfer to DfI of the DOE powers contained in the 2006 Act.

3.4. Until the potential issue with the transfer of the DOE power provided by section 49(2) of the 2006 Act is addressed and clarified, these Regulations use the powers under Article 19I of the 1981 Order to further provide for the necessary access to driver licensing records.

4. Consultation

4.1. As this legislation does not involve any change of policy or process, consultation was not considered necessary.

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 implications for equality of opportunity since they do 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 Regulatory Impact Assessment was not deemed necessary as there is no impact on the costs to business, the public sector or the voluntary sector.

7. Financial Implications

7.1 There are no financial implications associated with the proposals.

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. There are no EU implications associated with the proposals.

10. Parity or replicatory measure

10.1 Not Applicable

.

11. Additional information

11.1. Not applicable.