EXPLANATORY MEMORANDUM TO

THE MOTOR VEHICLES (DRIVING INSTRUCTION) (AMENDMENT) (CORONAVIRUS) REGULATIONS (NORTHERN IRELAND) 2021

2021 No. 137

1. Introduction

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

1.2. The Statutory Rule is made under Articles 62(1) and 76 of the Road Traffic (Northern Ireland) Order 2007 and is subject to the negative resolution procedure.

2. Purpose

2.1. The purpose of these Regulations is to amend the Motor Vehicles (Driving Instruction) Regulations (Northern Ireland) 2010 ("the Driving Instruction Regulations") in order to extend from two to three years, in certain cases, the period of time that a person wishing to become an approved driving or motorcycle instructor has to apply for the final instructional ability and fitness test after passing the initial driving instructor theory test. Such a person must also have passed either the driving or riding ability and fitness test, following their theory test pass and before their application for the final stage instructional ability and fitness test.

2.2. The Regulations therefore provide that a person may apply for the instructional ability and fitness test within three years after passing the theory test, having also passed either the driving or riding ability and fitness test, whichever is appropriate, but only where the normal two year period expired or will expire between 31st May 2020 and 31st August 2021.

3. Background

3.1. The Driving Instruction Regulations require that a person wishing to be registered as an Approved Driving Instructor or Approved Motorcycle Instructor must pass a three part examination. The examination consists of the driving instructor theory test, the driving or riding ability and fitness test, whichever is appropriate, and finally the instructional ability and fitness test. They must pass the theory test and either the driving or riding ability and fitness test before they can apply to take the final instructional ability and fitness test and they must apply to take that test within two years after passing the theory test.

3.2. The extreme disruption to practical driving tests due to the COVID-19 public health emergency, has impacted on those people wishing to become approved driving or motorcycle instructors who have already passed the theory test. They have been unable to take the required driving or riding ability and fitness test or the final instructional ability and fitness test. The issue is compounded by the fact that they must apply to take the final instructional ability and fitness test within two years after passing the theory test. If they fail to make that application within the stipulated period they will need to retake their theory test to progress.

3.3. Although practical driving tests resumed on 23rd April 2021 there are a small number of trainee instructors who are unable or unlikely to complete the qualifying process before the effective expiry of their theory test certificates.

3.4. In order to address this situation, caused by the COVID-19 emergency and through no fault of the trainees concerned, the Department has moved, via this Statutory Rule, to extend the period of time that a person wishing to become an approved driving or motorcycle instructor has to apply for the final instructional ability and fitness test after passing the theory test from two years to three years where the two year period has expired or will expire between 31st May 2020 and 31st August 2021. The extension also allows additional time for trainees to complete either the driving or the riding ability and fitness test, whichever is appropriate, which must also be passed after passing the theory test and before applying for the final instructional ability and fitness test.

4. Consultation

4.1. A formal consultation exercise was not carried out given the need to take urgent action. However, the Department has informally engaged with the Northern Ireland Approved Instructor Council (NIAIC). That engagement indicated strong support for the proposal to extend the period in question from two to three years.

5. Equality Impact

5.1. This Statutory Rule will apply equally to those people seeking to become approved driving or motorcycle instructors whose theory test pass certificate effectively expired or will expire during the period specified in these Regulations. Accordingly, no equality issues have been identified and the Department therefore considers that an equality impact assessment is not necessary.

6. Regulatory Impact

6.1. A Regulatory Impact Assessment has not been completed given the need to take urgent action to address the effects of the COVID-19 emergency. However, the Statutory Rule will reduce the impact on trainee driving or motorcycle instructors who have been unable to sit the practical elements of the qualifying

examination and whose theory test pass certificate effectively expired or will expire during the period specified in these Regulations.

7. Financial Implications

7.1. There would be a small loss in fee income for theory tests where trainees, who would otherwise have to restart the qualifying process, are given additional time to complete their qualification. However, the number of candidates affected is small, so the financial impact is minimal.

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 implications in relation to EU requirements.

10. Parity or replicatory measure

10.1 The Department for Transport in Great Britain have not made corresponding legislation at the time of the making of these Regulations.

11. Additional information

11.1. None