EXPLANATORY MEMORANDUM TO

The Motor Vehicles (Driving Instruction) (Amendment) Regulations (Northern Ireland) 2010

SR 2010 No. 367

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 Articles 48(1), (2), (4) and (6), 50, 51(1), 52(1), (2), (3), (4) and (7), 56(1) and (3), 62(1) and (2), 70(1), 75 and 77(2) 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 so as to extend the application of driving instruction to include instruction in the riding of motorcycles.

3. Background

3.1. In order to be registered as an Approved Motorcycle Instructor (AMI), instructors will be required to pass a three-part examination:

(i) theory test;

(ii) test of riding ability; and

(iii) test of instructional ability.

3.2. The tests must be passed in this order. All three parts of the examination must be passed within a two year period.

3.3. Three attempts at each part of the examination will be allowed, but if a potential instructor fails any part of the examination three times, they will have to wait two years before being able to begin the examination process again.

3.4. AMIs will also be required to meet the same requirements as those currently seeking to be added to the Department's ADI register. They must:

(i) have held a full motorcycle licence for four of the previous six years;

(ii) not have been disqualified from motorcycle riding in the previous four years; and

(iii) be a fit and proper person. A criminal check will be conducted on new applicants to determine if they are a fit and proper person.

3.5. As per the current ADI process, applicants who have passed all three parts of the examination and who meet the requirements above may, on payment of the appropriate fee, apply to be included on the register of Approved

Motorcycle Instructors. Their registration will last for four years, provided they continue to comply with the necessary requirements. They will then be required to apply to have their registration extended for a further four years.

3.6. During each four year period of registration, instructors will be assessed by the Driver and Vehicle Agency to ensure their ability to instruct remains at a satisfactory standard. If an instructor fails this test of continued ability to instruct, they may have up to two further attempts. If three attempts are unsuccessful, a recommendation will be made to remove the instructor from the AMI Register.

4. Consultation

4.1. In October 2007 DVA issued a consultation document on the introduction of compulsory basic training (CBT) for motorcyclists and the mandatory registration of Motorcycle Instructors. The majority of the proposals were well received by stakeholders, and the key recommendations that a CBT scheme and a mandatory register of AMIs be introduced were agreed by all 12 respondents. The consultation proposed that fees would be established on a cost-recovery basis and the majority of respondents supported this.

4.2. The Agency has established a Stakeholder group, which includes a number of the respondents to the consultation. They are fully aware of the charges associated with registration as an AMI, but see this as an initiative which, when coupled with CBT, will have a positive impact on road safety.

5. Equality Impact

5.1. In accordance with its duty under Section 75 of the Northern Ireland Act 1978, the Department conducted a screening exercise on the proposals for the introduction of the new motorcycling test and concluded that they do not have significant implications for equality of opportunity. The measure will not affect any radical 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 of the effect this instrument will have on the costs of business is available from the Department of the Environment at www.roadsafetyni.gov.uk and is attached at Annex A.

7. Financial Implications

7.1. The tests are conducted on a full cost-recovery basis and incurred costs are borne by the customer through the test fee.

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 there are no matters of concern.

9. EU Implications

9.1. Not applicable.

10. Parity or Replicatory Measure

10.1. In Great Britain, while CBT has been in place since 1990, currently there is no mandatory register of motorcycle instructors. A recent review of the CBT scheme in Great Britain has recommended the introduction of a motorcycle instructor register, and the Driving Standards Agency is considering this issue.

11. Additional Information

11.1. Not applicable.

Annex A

REGULATORY IMPACT ASSESSMENT

TITLE OF PROPOSAL

1. Compulsory Basic Training (CBT) and the Introduction of an Approved Motorcycle Instructor (AMI) Register

ISSUE

2. This Regulatory Impact Assessment considers the impact on business of the introduction of a scheme of Compulsory Basic Training (CBT) for learner motorcyclists and an Approved Motorcycle Instructor (AMI) Register in Northern Ireland (NI).

OBJECTIVE: Purpose and intended effect of measure

3. The overall purpose and objective of introducing CBT and AMI is to improve road safety and reduce the number of motorcycle casualties on Northern Ireland's roads.

4. The associated objectives are:
   - to contribute to the Programme for Government's PSA Target 14 – "Promoting Safer Roads";
   - to contribute to the DOE's strategic objectives;
   - to contribute to DVA's strategic objectives ;
   - to implement a specific action in DOE's Road Safety Strategy 2002/12;
   - to introduce regulated training for learner motorcyclists which will contribute to Road Safety in NI by ensuring they will receive training in an off road environment before proceeding to ride on a public road;
   - thus complying with NI Audit Office (NIAO) and Public Accounts Committee (PAC) recommendations and requirements from 2007;
   - to bring NI in line with Great Britain (GB) and

- to deliver an efficient and appropriate assessment method for motorcycle training and as a result the project will be able to utilise regulated and consistent Motorcycle Instructors quality assured by the Department. This will raise the quality of instruction of motorcyclists, and in turn improve the skills of learner motorcyclists on the public roads providing overall road safety benefits.

5. The policy objective is to implement successfully the requirements of the Project;

(a) in a way that supports the Government's road safety, mobility and social inclusion policies,
(b) in line with the Hampton Better Regulation principles,
(c) cost effectively,
(d) with stakeholder support, and
(e) in a manner that facilitates compliance.

The intended effect of this project is to ensure the delivery of 'fit for purpose' learner motorcyclist CBT training and AMI approval.

BACKGROUND

GB

6. Since 1990, all provisional motorcycle licence holders in GB must undergo a course of CBT, of a format prescribed in legislation, before being allowed on the public road. This covers basic elements of riding to ensure the rider can safely deal with other road users and hazards encountered whilst riding. Since the introduction there have been benefits to riders in terms of road safety. Deaths of motorcycle riders through road collisions decreased from 469 in 1992 to 440 in 1996. CBT was introduced in 1990 and as certificates are valid for two years, 1992 figures were considered appropriate for comparison. CBT is carried out by Approved Training Bodies (ATBs) approved by the Driving Standards Agency (DSA).

NI

7. PSNI statistics of Road Traffic Collisions and Casualties for Northern Ireland show that the number of motorcyclist fatalities increased from 12 in 2005/06 to 19 in 2007/08. In addition the total number of motorcyclists casualties increased from 395 in 2005/06 to 470 in 2007/08. Given these statistics, the motorcycle industry in NI is in favour of introducing a CBT scheme to align with the process for learners in GB and improve the current road safety statistics here.

8. In September 2007, DOE was criticised in a NIAO report, and at a subsequent PAC hearing, for not replicating the scheme in NI, given the large number of motorcycle fatalities that take place on NI roads. At that time a commitment

was given by the Department to introduce CBT in NI. The Department has asked the Driver & Vehicle Agency (DVA) to take forward these proposals to introduce a scheme of CBT for learner motorcyclists in NI.

9. A consultation paper was issued by the Agency in October 2007 proposing the introduction of CBT. In addition, in order to properly regulate CBT, the consultation proposed the introduction of an Approved Motorcycle Instructor (AMI) register based on a similar model to the Approved Motorcycle Instructor (ADI) Register, which would provide for instructors who could carry out pre- and post licence training for motorcyclists, not just CBT.

10. Currently, there exists in NI a statutory Register for Approved Driving Instructors (ADI) for instruction in motor cars only. Instruction in any other category is unregulated and those people who do provide such instruction need not be on any type of Register. There had been a Voluntary Motorcycle Register, however this has been closed and is being disbanded as there is lack of resource in DOE to continue registration. As a result, provision for setting up an approved and regulated motorcycle register was included in the Road Traffic (NI) Order 2007 which was further consulted upon in 2005/06.

RISK ASSESSMENT

11. Sensitivities/Risks arising from the introduction of CBT and AMI include:

- Public perception, especially amongst those who have been motorcycling for many years with a L-status licence, may be negative
- If requirements are perceived to be unreasonably onerous, there may be a risk of non compliance
- If applying for both ADI and AMI status, instructors may be required to repeat modules in certain areas

OPTIONS

12. DVA considered a number of options and these 3 options were carried forward for consideration:

- **OPTION 1:** Do nothing (considered non-viable)

- **OPTION 2:** Deliver a Basic Training Package in Northern Ireland that is a replication of the GB Compulsory Basic Training system as designed by DSA and includes an accreditation process and use of Approved Training Bodies (ATB)s. This option was not carried forward as it does not meet all of the Project objectives, nor does it overcome the ‘timescales’, ‘technical fit’ or ‘performance/ capacity’ constraints.

- **OPTION 3:** Deliver a Basic Training Package in NI that is based on the

GB CBT system as designed by DSA excluding Approved Training Bodies (ATBs). This option includes CBT training by AMIs.

- **OPTION 4:** Deliver a Basic Training Package in NI that is designed by DVA to include training prior to allowing motorcyclists on public roads. This option includes CBT training by AMIs.

BENEFITS

OPTION 1 – Do nothing

13. If no action is taken there are no actual benefits. The only benefit would be in saving the cost of implementing and delivering CBT.

OPTION 3 - Deliver a Basic Training Package in NI that is based on the GB CBT system as designed by DSA excluding ATBs. This option includes CBT training by AMIs.

14. The benefits associated with Option 3 are:

- The introduction of an already established system would need less research than that of a new scheme;
- No requirement to set up an accreditation process or ATBs as in GB, resulting in less cost; and
- Instructors benefit from an increase in trade due to the introduction of mandatory training.
- A reduction in the number of incidents involving learner motorcyclists and
- A reduction in the number of deaths involving learner motorcyclist

OPTION 4: Deliver a Basic Training Package in NI that is designed by DVA to include training prior to allowing motorcyclists on public roads. This option includes CBT training by AMIs.

15. The benefits associated with Option 4 are:

- A system can be developed to suit the needs of riders in NI, as a result of research being carried out by the Driver Policy and Standards (DP&S) Directorate;
- CBT can be tailored to continue using the best elements of CBT as used in GB, whilst omitting less successful parts;
- There is no need for development of an accreditation process or ATBs therefore costs would be reduced;
- Instructors would benefit from an increase in trade due to the

introduction of mandatory training;

- A reduction in the number of incidents involving learner motorcyclists; and
- A reduction in the number of deaths involving learner motorcyclist

NON-MONETARY BENEFITS

16. In order to assess the relative weight of non-monetary factors, a scoring matrix has been developed and each factor scored on the basis of:

Complete achievement of objective = 5 Non achievement = 1
Weighting: High impact = 5 Low impact = 1

		Option 1		Option 3		Option 4	
Factor	Weighting	Achievement	Weighted Score	Achievement	Weighted Score	Achievement	Weighted Score
To deliver an efficient and appropriate assessment method	**5**	**1**	**5**	**3**	**15**	**5**	**25**
Improve rider skills and knowledge	**5**	**1**	**5**	**5**	**25**	**5**	**25**
To contribute to overall Road Safety in Northern Ireland	**5**	**1**	**5**	**3**	**15**	**5**	**25**
Contribution to DOE's Strategic Objectives	**5**	**1**	**5**	**5**	**25**	**5**	**25**
			20		**80**		**100**

17. **OPTION 4** delivers the greatest non-monetary benefits in all of the areas assessed

BUSINESS SECTORS AFFECTED

18. Within Northern Ireland, the introduction of CBT/AMI will impact several business areas:

- Department of the Environment (Road Safety Division – RSD)
  - Policy Group
  - Legislation Group

- DVA
  - DVA Operations Branch (Test centre staff and examiners)
  - Finance and Corporate Services

- Driver Policy and Standards

19. The introduction of CBT/AMI may also have an impact on external customers including:
    - VMIR (Voluntary Motorcycle Instructor Register)
    - Motorcyclists
    - Motorcycle Clubs
    - Motorcycle Instructors
    - Motorcycle Retail Industry
    - Approved Driving Instructors
    - ROSPA
    - NIPSA
    - Motorcycle Action Group (MAG)
    - British Motorcycle Federation (BMF)
    - Driving Standards Agency (GB)
    - PSNI
    - General Public

COSTS

20. Since DVA Testing operates as a Trading Fund any costs incurred by the chosen option will ultimately require cost recovery to come from the fees.

21. Fees or charges associated with the basic training provided by the AMI will not form any part of the Agency's fees regime. These fees will be market led, charged and received directly by the AMI. The Agency will have no role to play in setting these fees.

22. Fees that may be created as a result of CBT are -
    - CBT fee for applicant;
    - Quality Assurance fee; and
    - CBT certificate fee.

23. All income to the CBT/AMI Project would be as a result of AMI fees. The level of these fees is dependent on the outcome of the option appraisal and the way forward for the project.

24. Fees to be charged to AMI applicants have been replicated to mirror the current ADI fees. Fees that may be created as a result of AMI are -
    - AMI Theory Test: £72
    - AMI Driving Ability and Fitness Test: £130
    - AMI Instructional Ability Test: £138
    - Entry onto AMI: £240

- Renewal of entry onto register: £240

25. A summary of the key finances of each option (including Optimism Bias) are shown below:

	Option 1	Option 3	Option 4
Capital Costs	-	20,449	20,449
Baselined & Project Costs	-	222,195	222,195
Operational Costs	-	206,344	206,344
Optimism Bias - Capital	-	5,112	4,294
Optimism Bias – Works Duration	-	13,332	11,110
Total Costs	**-**	**467,432**	**464,392**
Baseline Costs	-	194,261	194,261
Baseline Optimism Bias	-	11,656	9,713
Total Baseline	-	205,917	203,974
Total Cost less Total Baseline	**-**	**261,516**	**260,419**
Income (2010-2017)	-	253,640	253,640
FINAL COSTS (less Baseline Costs & Income)	**-**	7,845	6,778

26. In summary, Option 1 considers doing nothing but to continue as at present. It is included solely for cost comparison purposes. Options 3 and 4 will both cost the same to implement as they both require the same capital spend and the average operational costs will be the same. Options 3 and 4 also both provide the same amount of income. It is the optimism bias that is factored into each option which causes Option 4 to result in the lowest final costs.

EQUITY AND FAIRNESS

27. Since these proposals will apply uniformly to all motorcycle riders and instructors, DVA consider there is no one minority group that would be adversely affected by the proposals. No differences would be made in terms of geographical locations, as provision of CBT training would be demand led throughout NI and will be available in both rural and urban locations. No health impacts have been identified. DVA would provide testing at both Londonderry and Belfast centres for instructors wishing to be registered, as is currently the situation for car instructors.

SMALL BUSINESS IMPACT TEST

28. The majority of Motorcycle Instructors in Northern Ireland operate on their own or as a small business. DVA has given particular attention to the need to introduce these requirements in a way that does not discriminate against them, or cause them undue difficulties. The majority of motorcycle trainers are

members of the DOE voluntary motorcycle register and as such will have acquired rights. This group of trainers will be entitled to apply for registration and have their names put onto the AMI register without having to pass any of the AMI entrance examinations. However, they will be subject to an AccessNI check and payment of the registration fee. They must also make application within six months of implementation of the scheme. There are also motorcycle instructors with long and relevant experience in the industry who may not be members of the DOE voluntary register. These instructors will be considered on an individual basis for exemption from the test of riding ability (part 2) and / or the test of instructional ability (part 3) of the qualifying process. This will be subject to the instructor providing sufficient evidence showing they have relevant qualifications and experience in providing motorcycle training.

29. Introduction of CBT may have a direct impact on the motorcycle retail industry. As this is a new scheme it is difficult to predict how many moped/motorcycle riders will abandon motorcycling if there is training and monetary costs involved. If this situation occurs, this might have an impact on motorcycle/moped sales. DVA has endeavoured to keep the motorcycle retail industry fully engaged regarding the introduction of CBT/AMI and there is a representative of the motorcycle retail industry on the Stakeholder Group. The CBT/AMI Consultation was also issued to Motorcycle Retailers and letters have been issued to keep them fully updated. There has been no negative feedback from the industry.

30. Fast food retailers, courier services or any business which provides a delivery service may be impacted by the introduction of CBT. In urban areas, mopeds are a common form of transport for delivery service and once CBT is introduced, this may depending on the status of employees motorcycle licence, affect both the service they provide and the staff they employ. Fast food retailers who employ holders of provisional motorcycle licences will need to consider whether it is feasible to continue using mopeds as a method of transport for deliveries. However they may see this as a positive road safety measure and consider payment or part-payment to put their staff through a CBT course. The introduction of CBT will be in both their interests and their staffs' interest from a health and safety perspective.

ENFORCEMENT AND SANCTIONS

31. It will be an offence for anyone to forge, falsify or lend a CBT certificate. This is provided for in Article 174(2) of the 1981 Order [the Road Traffic (NI) Order 1981], as amended by the 2007 Order [Road Traffic (NI) Order 2007].

32. Following commencement of Article 7 of the 1991 Order, a provisional licence will no longer authorise the riding of a moped or motorcycle on the public road unless the rider has completed CBT and has a valid CBT certificate, is undergoing CBT training, or held the provisional entitlement pre-implementation. Anyone contravening these provisions will be committing an offence under Article 3 of the 1981 Order.

33. PSNI officers and DVA Vehicle Examiners currently have powers under Article 180 to stop drivers / riders and to require them to produce certain documentation. Following commencement of Article 7 of the 1991 Order, the list of documents will include CBT certificates. Failure to produce the document within 7 days of the request will constitute an offence.

34. Under the scheme, AMIs will be required to check a trainee has the correct entitlement before beginning the course. Failure to do so would constitute an offence under Article 3(2) of the 1981 Order i.e. does not have a valid driving licence.

35. All these offences are either already provided for in the 1981 Order, or will be provided for following commencement of Article 7 of the 1991 Order.

36. Given that new riders who collect 6 penalty points within two years of passing their test revert to learner status, and must retake their tests again for a full licence, these changes will provide a greater incentive to new riders not to ride without first completing a CBT course.

37. Those found giving instruction for payment without being on the instructors' register will be guilty of an offence under the Road Traffic (NI) Order 2007.

MONITORING AND REVIEW

38. DVA will assess the effectiveness of the two new schemes against their planned objectives five years after they have been implemented in NI.

CONSULTATION

39. A consultation paper was issued by the Agency in October 2007 proposing the introduction of CBT. In addition, in order to properly regulate CBT, the consultation proposed the introduction of an Approved Motorcycle Instructor (AMI) register based on a similar model as the Approved Motorcycle Instructor (ADI) Register, which would provide for instructors who could carry out pre- and post licence training for motorcyclists, not just CBT.

40. A list of the people to whom the consultation document was sent is enclosed in ***Appendix A*** to this document. This list is not exhaustive, and includes representatives from the motorcycle industry. A total of 295 consultation documents were issued and 12 responses were received.

SUMMARY AND RECOMMENDATION

41. The costs and benefits of each option can be summarised below:

Option	Total Cost per annum	Total Benefit per annum
1. Do nothing	Nil	Nil

3. Deliver a Basic Training Package in NI that is based on the GB CBT system as designed by DSA excluding ATBs. This option includes CBT training by AMIs.	One-off (Transition) = £20,449 Average annual cost = £29,478 Project Costs = £27,394	Average annual benefit = £ 36,234
4. Deliver a Basic Training Package in NI that is designed by DVA to include training prior to allowing motorcyclists on public roads. This option includes CBT training by AMIs.	One-off (Transition) = £20,449 Average annual cost = £29,478 Project Costs = £27,934	Average annual benefit = £ 36,234

42. The cost of implementation of both option 3 and option 4 are equal as both will incur the same capital spend, and also both will require the same amount of time spend from the project team. This is because the time to introduce the current GB practice, and to introduce the practice updated as in the GB review, will be equal in terms of working hours.

43. However **Option 4** is considered to be the most viable option as it provides for both the monetary and non-monetary benefits which are the main thrust for implementing CBT and it fully meets DVA's requirements. Para 16 demonstrates that Option 4 delivers the greatest non-monetary benefits in all of the areas assessed and para 25 shows that Option 4 results in the lowest final costs as the optimism bias figures are higher for Option 3.

DECLARATION

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

Signed: *Stanley Duncan*

Date: 4th November 2010

CONTACT POINT

12. Enquiries and comments regarding this Regulatory Impact Assessment should be addressed to Laura Simpson at:

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Appendix A – List of Consultees

The following is not an exhaustive list, but is indicative of the types of organisations the consultation document was sent to.

Motorcycle Trainers
Motorcycle Retailers
Advanced Driving Instructors
DOE
DVA
PSNI
Equality Consultees
NIPSA
House of Lords Library
House of Commons Library
Northern Ireland Assembly Library
MP's and MEP's
MLAs
Northern Ireland Party Leaders
Road Safety Organisations
Individuals/Organisations who requested further information.