EXPLANATORY MEMORANDUM TO

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

2021 No. 136

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 132(2), 135 and 218(1) of the Road Traffic (Northern Ireland) Order 1981 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) (Trainee Licence) Regulations (Northern Ireland) 2010 ("the Driving Instruction Trainee Licence Regulations") in order to extend from two years to three years, in certain cases, the period of time that a person wishing to give instruction in the driving of a motor car has to apply for a trainee licence after passing the driving instructor theory test.

2.2. The Regulations therefore provide that a person may apply for a trainee licence within three years after passing the theory test where the normal two year period expired or will expire between 31st May 2020 and 31st August 2021.

3. Background

3.1. A person wishing to be registered as an Approved Driving Instructor must pass a three part examination consisting of the driving instructor theory test, the driving ability and fitness test and the instructional ability and fitness test. The Driving Instruction Trainee Licence Regulations require that a person wishing to obtain a Trainee Licence to give instruction in the driving of a motor car must pass the first two parts of that three part examination prior to making a Trainee Licence application. They must also make their application within two years of passing the theory test and not have failed the final instructional ability and fitness test more than twice since passing the theory test at the time of that application.

3.2. The extreme disruption to practical driving tests due to the COVID-19 public health emergency, has impacted on those people wishing to obtain a trainee licence who have already passed the theory test but have been unable to take the

driving ability and fitness test and therefore can't make a trainee licence application or indeed progress to do the final instructional ability and fitness test. The issue is compounded by the fact that they must apply for their trainee licence 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 have passed their theory test but are unable or unlikely to be in a position to apply for a trainee licence before the effective expiry of their theory test certificates.

3.4. In order to address this situation, which is 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 obtain a trainee licence has to apply for the licence 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.

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 obtain a trainee licence whose theory test pass certificates 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 those people seeking to obtain a trainee licence in driving instruction who have been unable to sit the driving ability and fitness test and whose theory test pass certificates 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 in order to obtain a trainee licence, are given additional time to complete the required driving ability and fitness test. 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