EXPLANATORY MEMORANDUM TO

THE MOTOR VEHICLES (DRIVING LICENCES) (AMENDMENT) (CORONAVIRUS) REGULATIONS (NORTHERN IRELAND) 2020

S.R. 2020 No. 188

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 5(2A), (5A) and 218 of the Road Traffic (Northern Ireland) Order 1981 and is subject to the negative resolution procedure.

2. Purpose

The purpose of the Statutory Rule is to amend the Motor Vehicles (Driving Licences) Regulations (Northern Ireland) 1996 ("the Driving Licence Regulations") in order to extend the validity of driving theory test and motorcycle special manoeuvres test pass certificates that expire during the period prescribed.

Accordingly, a driving theory test pass certificate that expires between 1st March 2020 and 31st October 2020, is deemed to be extended for a period of eight months from the date of expiry shown on the certificate. Whereas a motorcycle special manoeuvres test certificate that expires between 1st March 2020 and 31st August 2020, is deemed to be extended for a period of six months from the date of expiry shown on the certificate.

3. Background

3.1. The Driving Licence Regulations require that learner drivers must pass a theory test before they can take a practical test and that they must hold a valid theory test pass certificate on the date on which they take their practical driving test. Theory test pass certificates are prescribed by these Regulations as being valid for a period of two years.

3.2. For learner motorcyclists, the Driving Licence Regulations also prescribe that the motorcycle practical test consists of two elements, an off-road special manoeuvres test and an on-road test. The off-road special manoeuvres test must be passed before the on-road test can be taken, and candidates must hold a valid special manoeuvres test pass certificate on the date on which they take their on-road motorcycle test. Again, special manoeuvres test pass certificates are prescribed as being valid for a period of two years

3.3. The suspension, since 20th March 2020, of practical driving tests due to the COVID-19 public health emergency, has impacted on some learner drivers who have been unable to book a practical test. The problem is compounded for those whose theory or motorcycle special manoeuvre test pass certificate has or will expire during the period affected by the practical test suspension. Ordinarily, customers whose pass certificate expires must re-take and pass the relevant theory or special manoeuvres test before they can apply for practical testing.

3.4. Currently, around 2,400 theory test pass certificates have expired between the beginning of March and the end of August, and by the end of October this will have risen to just over 3,200. The majority of affected customers (85%) hold category A (motorcycle) or B (car) theory test certificates.

3.5. In relation to motorcycle special manoeuvres test pass certificates, records indicate that 28 will have expired between 1 March 2020 and 31 August 2020.

3.6. In order to address this situation, which is caused by the COVID-19 emergency and through no fault of the customers concerned, the Department has moved, via this Statutory Rule, to extend the validity period of pass certificates affected. Thus enabling customers to book and take a driving test at some future point during the period of certificate extension.

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) and with PSNI. That engagement has indicated support for the proposal to extend the validity period of driving theory and motorcycle special manoeuvres test pass certificates.

5. Equality Impact

5.1. This Statutory Rule will apply equally to the holders of all Northern Ireland driving theory and motorcycle special manoeuvres test pass certificates which expire during the periods specified. No equality issues have therefore been identified.

6. Regulatory Impact

6.1. A Regulatory Impact Assessment has not been completed given the need to take urgent action to address the affects of the COVID-19 emergency addressed by this Statutory Rule. However, the Statutory Rule is designed to reduce the impact on learner drivers who have been unable to book a practical test, and whose theory test or motorcycle practical test pass certificate expires during the period affected by the practical test suspension due to the COVID-19 emergency.

7. Financial Implications

7.1. In order to ensure that affected customers are able to book a practical test, it will be necessary to put in place a change to the test booking system to make certain

that pass certificates which have been extended as a result of this Statutory Rule are recognised as valid. The cost for this system change is estimated to be in the region of £3,000.

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 this Statutory Rule is compatible with section 24 of the Northern Ireland Act 1998.

9. EU Implications

9.1. The extension of test certificate validity provided for by this Statutory Rule does not breach EU requirements and there are no EU implications. Directive 2006/126 (the Driving Licence Directive) sets out the requirements of theory and practical driving tests, it does not however, prescribe the period of validity that must be attributed to theory or motorcycle special maneouvure test pass certificates.

10. Parity or replicatory measure

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

11. Additional information

11.1. Not applicable.