EXPLANATORY MEMORANDUM TO

THE MOTOR VEHICLES (DRIVING LICENCES) (AMENDMENT No. 2) (CORONAVIRUS) REGULATIONS (NORTHERN IRELAND) 2020

S.R. 2020 No. 299

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), 19C 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 pass certificates.

Accordingly, a driving theory test pass certificate that has expired or will expire between the periods indicated in the table below will be deemed to have been extended, by the corresponding extension period, from the date of expiry shown on the certificate.

Expiry Date Range	**Extension Period**
1st March 2020 and 31st October 2020	12 months[1]
1st November 2020 and 30th June 2021	8 months

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. The suspension of practical driving tests due to the COVID-19 (Coronavirus) public health emergency between 20th March 2020 and 31st August 2020, impacted on some learner drivers who were unable to book a practical test. The

[1] Driving theory test pass certificates that expired between 1st March 2020 and 31st October 2020 had previously been extended by 8 months under SR 2020 No. 188. The effect of this SR is therefore to extend the validity of a pass certificate expiring within this period by a further 4 months.

problem was compounded for those whose theory test pass certificate expired during that period. Ordinarily, customers whose pass certificate expires must re-take and pass the stipulated theory test before they can apply for practical testing.

3.3. In order to address that situation, caused by the COVID-19 (Coronavirus) emergency and through no fault of the customers concerned, the Department moved to extend the validity period of pass certificates affected. Accordingly, the Motor Vehicles (Driving Licences) (Amendment) (Coronavirus) Regulations (Northern Ireland) 2020 (S.R. 2020 No. 188) extended the validity of driving theory test pass certificates that expired between 1st March 2020 and 31st October 2020 by 8 months. This was intended to enable customers to book and take a driving test at some future point during the period of certificate extension.

3.4. However practical driving tests have continued to be seriously disrupted by the ongoing COVID-19 emergency. In particular, the necessary restrictions imposed to help stop the spread of Covid-19 by the Northern Ireland Executive between 16th October 2020 and 20th November 2020 once again meant that practical driving tests could not be carried out and therefore tests that had been booked over that period had to be cancelled. Further restrictions between 27th November 2020 and 10th December 2020 also mean that practical driving tests that had been booked have had to be cancelled.

3.5. Given these recent restrictions and the ongoing impact of the COVID-19 emergency, the Department has considered it necessary to further extend the validity of driving theory test pass certificates. It is of note that some candidates whose theory test pass certificate has already been extended by the Department's earlier intervention (S.R. 2020 No. 188), have been unable to secure a practical driving test appointment before the extended expiry date of their pass certificate.

3.6. Accordingly, a driving theory test pass certificate that expires between 1st March 2020 and 31st October 2020, will now be deemed to have been extended for a period of 12 months, ie extended by a further 4 months, while such a test pass certificate that expires between 1st November 2020 and 30th June 2021, will be deemed to have been extended for a period of 8 months. It is intended that these extension periods will provide some margin to enable the Department to address the longer practical test waiting times that are being experienced due to the public health emergency.

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 indicated support for the proposed further extension of the validity period of driving theory test pass certificates.

5. Equality Impact

5.1. This Statutory Rule will apply equally to the holders of all Northern Ireland driving theory 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 effects of the COVID-19 (Coronavirus) emergency. However, the Statutory Rule will help to reduce the impact on learner drivers who have been unable to book a practical test, and whose theory test pass certificate has expired or will expire during the ongoing emergency period.

7. Financial Implications

7.1. In order to ensure that affected customers are able to book a practical test, changes will be applied manually to update the booking system to extend the validity of relevant theory test pass certificates. Cost will be kept to a minimum.

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 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.