EXPLANATORY MEMORANDUM TO

The Motor Vehicles (Driving Licences) (Amendment No. 2) Regulations (Northern Ireland) 2024

S.R. 2024 No. 213

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 4(7), 19C(1), (1A)(a) and (f) and (2) and 218 of the Road Traffic (Northern Ireland) Order 1981 and is subject to the negative resolution procedure.

2. Purpose

2.1. The purpose of the Statutory Rule covered by this Memorandum is to insert a new regulation 55ZB into the Motor Vehicles (Driving Licences) Regulations (Northern Ireland) 1996.

2.2. The insertion of the new regulation will remedy an unintended gap in domestic legislation which, following EU Exit, means that former holders of Northern Ireland (NI) or Great Britain (GB) driving licences that were issued after the UK ceased to be an European Economic Area ("EEA") country, and who exchange their licence for an EEA one (as required by many EEA countries), do not have the same rights as other EEA licence holders if they return to become resident in NI.

3. Background

3.1. The treatment of EEA licences in NI is set out in the Road Traffic (Northern Ireland) Order 1981 ("the 1981 Order") and is based on the definition of Community licence at Section 19D(1) of the 1981 Order. The definition of Community licence excludes licences previously exchanged from a non-EEA country which, since EU Exit, also excludes licences exchanged from a NI or GB licence issued on or after the date of EU Exit – 1 January 2021.

3.2. The purpose of excluding non-EEA countries from the definition was to ensure that the Department would not be obliged to recognise or exchange licences which were first issued in such countries. Separate provision exists for the recognition and exchange of licences issued by non-EEA countries.

3.3. This means that returning drivers cannot rely on the provision in section 15A of the 1981 Order which authorises the use of EEA licences in NI. The exclusion of

EEA licences held by those returning drivers was an unintentional consequence of the UK no longer being an EEA country.

3.4. Those returning drivers could potentially exchange their EEA licence for a NI licence or rely on the Motor Vehicles (Driving Licences) Regulations (Northern Ireland) 1996 ("the 1996 Regulations") which make provision at Regulation 55 for persons who become resident in NI to drive as the holder of a 'relevant permit', which includes EEA licences.

3.5. However, Regulation 55 of the 1996 Regulations only allows the use in NI of an EEA licence held by a returning driver for 12 months after that returning driver becomes resident and to drive small vehicles, motor bicycles and mopeds. Regulation 55 does not provide for recognition of any other vehicles authorised by an EEA licence held by a returning driver.

3.6. The Department's policy is to recognise EEA licences held by returning drivers for as long as they were valid. This policy did not change following EU Exit.

3.7. This rule will therefore correct the unintended anomaly resulting from EU Exit whereby returning drivers were excluded from the general rule that EEA licences are recognised as valid under NI legislation. Former holders of NI or GB driving licences that were issued after the UK ceased to be an EEA country, who exchange their licence for an EEA one (as required by many EEA countries), do not have the same rights as other EEA licence holders if they return to become resident in NI. Returning drivers are also excluded from the definition of Community licence which in turn limits their ability to drive lawfully in NI.

3.8. The amended legislation will reflect Department's intended policy towards returning drivers, whereby they should:

(i) benefit from the same rights as other EEA licence holders and
(ii) not be subject to different rules on the basis of the date they were issued with a NI or GB licence.

4. Consultation

4.1. The Department identified the following organisations as being most likely to have an interest in the regulation: Police Service of Northern Ireland, DfI Transport Regulation Unit, National Police Chiefs' Council, Association of British Insurers, British Insurance Brokers Association, Motor Insurers Bureau, Financial Conduct Authority, Logistics UK, the Road Haulage Association and Bus and Coach NI. This is because the regulation relates to the validity of returning drivers' driving licences, which is a matter of particular interest to the police and insurance bodies. In relation to the impact on returning drivers' ability to drive larger vehicles such as HGVs and coaches, the Department considered representative bodies of operators in those sectors would also likely have views.

4.2. The Department wrote to these organisations in a targeted consultation which ran for four weeks from 26 July 2024. Three responses were received, all of which

were in support of the Department's proposal to correct the unintended position in legislation.

5. Equality Impact

5.1. In accordance with its duty under section 75 of the Northern Ireland Act 1998, the Department conducted a screening exercise on the proposal and concluded that it does not have implications for equality of opportunity. The measures will not affect any group disproportionately. In light of this, the Department considers that an equality impact assessment is not necessary. A copy of the screening document is available on the Department's website at https://www.infrastructure-ni.gov.uk/.

6. Regulatory Impact

6.1. A Regulatory Impact Assessment was not considered necessary as the proposal does not result in any costs or savings on business, charities or voluntary bodies.

7. Financial Implications

7.1. No financial implications for the Department were identified.

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. This Statutory Rule only applies to Northern Ireland and has no NI Protocol implications.

10. Parity or replicatory measure

10.1. The Statutory Rule is based on similar provisions contained in the GB Statutory Instrument, The Motor Vehicles (Driving Licences) (Amendment) Regulations 2024 [SI 2024/381].

11. Additional information

11.1. Not applicable.