EXPLANATORY MEMORANDUM TO

THE MOTOR VEHICLES (DRIVING LICENCES) (AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2013

SR 2013 No. 170

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 9(2) and (4), 19C(1), (1A) and (2), and 218(1) of the Road Traffic (Northern Ireland) Order 1981 and is subject to the negative resolution procedure.

2. Purpose

2.1. These Regulations implement the minimum standards of medical fitness required for eyesight and epilepsy, as specified in Directive 2009/113/EC of 25 August 2009.

3. Background

3.1. These Regulations amend regulations 49, 50 and 51 of the Motor Vehicles (Driving Licences) Regulations (Northern Ireland) 1996 ("the 1996 Regulations") which prescribe the physical disabilities which would require refusal or revocation of a licence for a Group 1 or 2 driving licence unless certain conditions are satisfied.

3.2. Commission Directive 2009/113/EC amends the minimum medical standards required for driving licensing in respect of three medical conditions which are eyesight, epilepsy and diabetes mellitus.

3.3. These Regulations relate to the vision and epilepsy elements of the Directive, the diabetes element was dealt with in S.R. 2012 No. 355. Many of our medical standards already meet EU minimum standards. However, some changes to the 1996 Regulations are necessary to comply with the terms of the Directive.

4. Consultation

4.1. The proposals were covered in a UK-wide consultation carried out by DVLA from 3rd February to 28 April 2011 on amendments to driving licence standards for vision, diabetes and epilepsy arising from Commission Directives 2009/112/EC and 2009/113/EC.

5. Equality Impact

5.1. There are no Human Rights, Equality, Environmental, Rural or Financial issues associated with the proposed legislation.

6. Regulatory Impact

6.1. A RIA was not prepared as no adverse impact on the costs to the private or voluntary sectors are foreseen.

7. Financial Implications

7.1. Financial implementations for the Department are likely to be insignificant.

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 statutory rule is not incompatible with section 24 of the Northern Ireland Act 1998.

9. EU Implications

9.1. These Regulations implement the minimum standards of medical fitness required for eyesight and epilepsy, as specified in Directive 2009/113/EC of 25 August 2009 ("the Medical Directive") (O.J. No. L 223, 26.8.09, p.31) which amends Directive 2006/126 EC of the European Parliament and of the Council on driving licences (O.J. No. L 51, 22.2.06, p.17). The Medical Directive was added to Annex XIII of the European Economic Area Agreement by Decision of the EEA Joint Committee No. 28/2010 of 12 March 2010 (O.J. No. L 143, 10.6.10, p.23).

10. Parity or Replicatory Measure

10.1. This mirrors the Motor Vehciles (Driving Licences) Amendment Regulations 2013 made in Great Britain on 11th February 2013 (S.I. 2013 No. 258.

11. Additional Information

11.1. Not applicable.

DEPARTMENT OF THE ENVIRONMENT

Transposition Table for Epilepsy

DIRECTIVE 2009/113/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON DRIVING LICENCES OF 25 AUGUST 2009

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Any reference to an "amending regulation" means a regulations contained in the Motor Vehicles (Driving Licences) (Amendment) Regulations (Northern Ireland) 2013 ("the 2013 Regulations")
Any reference to "At a Glance" means the DVLA issued 'At a Glance Guide to the current Medical Standards of Fitness to Drive'

Existing EU Provision	New Provision in 2009/11/EC and 2009/113/EC	Objectives	Domestic Provisions
12. Epileptic seizures or other sudden disturbances of the state of consciousness constitute a serious danger to road safety if they occur in a person driving a power-driven vehicle.	12. Epileptic seizures or other sudden disturbances of the state of consciousness constitute a serious danger to road safety if they occur in a person driving a power-driven vehicle.	Statement. No change.	The overarching scheme to apply medical standards to driver licensing is provided by Articles 9-11 of the Order (see transposition table for vision for detailed explanation).
	Epilepsy is defined as having had two or more epileptic seizures, less than five years apart. A provoked epileptic seizure is defined as a seizure which has a recognisable causative factor that is avoidable.	To provide a definition of an "epileptic seizure" and a "provoked seizure".	Definitions of epilepsy, epileptic seizure, isolated seizure and provoked seizure are provided in amending regulations 3(3) and 4(6) of the 2013 Regulations. For Group 1, two or more epileptic seizures within a 5 year period are a relevant disability (amending regulation 3(2)). For Group 2, two or more epileptic seizures within a 10 year period area relevant disability (amending regulation 4(5)).
	A person who has an initial or isolated seizure or loss of consciousness should be advised not to drive. A specialist report is required, stating the period of driving prohibition and the requested follow-up.	Ensures anyone who has an initial or isolated seizure or loss of consciousness stops driving and obtains a specialist report stating when driving can resume.	Following an isolated seizure a person is prescribed to have a relevant disability (amending regulations 3(2) and 4(5) of the 2013 Regulations) which must be reported (Article 11(4) of the Order) and will lead to licence refusal/revocation (Articles 9-10 of the Order).
	It is extremely important that the	Ensures a neurologist identifies	

	person's specific epilepsy syndrome and seizure type are identified so that a proper evaluation of the person's driving safety can be undertaken (including the risk of further seizure) and the appropriate therapy instituted. This should be done by a neurologist.	the specific epilepsy syndrome and seizure type, so the appropriate therapy can be administered and they can evaluate the risk of driving.	
Group 1			
12.1 A licence may be issued or renewed subject to an examination by a competent medical authority and to regular medical check-ups. The authority shall decide on the state of epilepsy or other disturbances of consciousness its clinical form and progress (no seizure in the last two years, for example), the treatment received and the results thereof.	12.1 Drivers assessed under group 1 with epilepsy should be under licence review until they have been seizure-free for at least five years. If the person has epilepsy, the criteria for an unconditional licence are not met. Notification should be given to the licensing authority	Drivers with epilepsy must have their licence reviewed for at least five years. A ""til 70 licence" cannot be issued if a person has epilepsy.	Epilepsy is a prescribed relevant disability (amending regulations 3(2) and 4(5)), but a licence can be issued subject to compliance with conditions in those 2013 Regulations, for a maximum period of up to three years for Group 1 (Article 15(1)(c) of the Order). After five years seizure free the person is no longer classed as having a prescribed disability of epilepsy and can be issued with a licence (amending regulation 3(2)).
	12.2 Provoked epileptic seizure: the applicant who has had a provoked epileptic seizure because of a recognisable provoking factor that is unlikely to recur at the wheel can be declared able to drive on an individual basis, subject to neurological opinion (the	To allow licensing, where a provoking factor unlikely to recur at the wheel caused the seizure, on an individual basis, subject to neurological opinion.	The 'At a Glance' guide advises that a provoked seizure may be dealt with on an individual basis, applying the statutory "source of danger to the public" test in Article 9(2) of the Order and subject to any relevant disabilities prescribed in regulation 49 or 50 of the principal Regulations.

	assessment should be, if appropriate, in accordance with other relevant sections of Annex III (e.g. in the case of alcohol or other co-morbidity).		
	12.3 First or single unprovoked seizure: the applicant who has had a first unprovoked epileptic seizure can be declared able to drive after a period of six months without seizures, if there has been an appropriate medical assessment. National authorities may allow drivers with recognised good prognostic indicators to drive sooner.	Where someone has a first unprovoked seizure they must not drive for six months and until there has been an appropriate medical assessment.	An isolated seizure is prescribed as a relevant disability where such a seizure has occurred within the previous 6 months (or one year if there is an underlying causative factor which may increase future risk) – amending regulation 3(2) of the 2013 Regulations.
	12.4 Other loss of consciousness: The loss of consciousness should be assessed according to the risk of recurrence while driving.	To assess the risk of recurrence of loss of consciousness while driving.	Already implemented by regulation 49(1) of the principal Regulations.
	12.5 Epilepsy: drivers or applicants can be declared fit to drive after a one-year period free of further seizures.	To allow those who suffered with epilepsy to be licensing after being seizure free for one year.	Amending regulation 3(2) of the 2013 Regulations prescribes a seizure free period of at least one year as a pre-condition before grant of a licence can be considered.
	12.6 Seizures exclusively in sleep: the applicant or driver who has never had any seizures other than seizures during sleep can be declared fit to drive so long as this pattern has been established for a period which must not be less than the seizure-free period required for epilepsy. If there is an	To allow those who only have seizures while asleep to obtain a licence after the pattern has been established for one year, even if they continue to have this type of seizure.	The standard one year seizure free period is subject to a number of exceptions permitted by the Medical Directive including an exception for seizures exclusively in sleep – amending regulation 3(2) of the 2013 Regulations.

	occurrence of attacks/seizure arising while awake, a one-year period free of further event before licensing is required (see "Epilepsy").		
	12.7 Seizures without influence on consciousness or the ability to act: the applicant or driver who has never had any seizures other than seizures which have been demonstrated exclusively to after neither consciousness nor cause any functional impairment can be declared fir to drive so long as this pattern has been established for a period which must not be less than the seizure-free period required for epilepsy. If there is an occurrence of any kind of attacks/seizures a one-year period free of further event before licensing is required (see "Epilepsy")	To allow those who only have seizures without influence on consciousness or the ability to act to obtain a licence after the pattern has been established for one year, even if they continue to have this type of seizure.	This exception has also been transposed in amending regulation 3(2) of the 2013 Regulations.
	12.8 Seizures because of a physician-directed change or reduction of anti-epileptic therapy: the patient may be advised not to drive from the commencement of the period of withdrawal and thereafter for a period of six months after cessation of treatment. Seizures occurring during physician-advised change or withdrawal of medication require three months	When ant-epileptic therapy is changed or reduced by a physician, the patient should not drive during the withdrawal or for a period of six months after the treatment has finished. If the patient suffers a seizure during this time they must not drive for a period of three months if the effective treatment is reinstated, this will be six months not three months based on the advice of	This exception has also been transposed in amending regulation 3(2) of the 2013 Regulations.

	off driving if the previously effective treatment is reinstated.	the Secretary of State Honorary Medical Advisory Panel.	
	12.9 After curative epilepsy surgery: see “Epilepsy”.	Patients not to drive for a period of one year after curative epilepsy surgery.	A licence would not be granted for a minimum of up to a year after surgery and then only provided the licence holder had been seizure free for at least a year (amending regulation 3(2) of the 2013 Regulations); meets other conditions and is not considered a source of danger to the public (amending regulation 3(2) of the 2013 Regulations).
Group 2			
12.2 Driving licences shall not be issued to or renewed for applicants or drivers suffering or liable to suffer from epileptic seizures or other sudden disturbances of the state of consciousness.	12.10 The applicant should be without anti-epileptic medication for the required period of seizure freedom. An appropriate medical follow-up has been done. On extensive neurological investigation, no relevant cerebral pathology was established and there is no epileptiform activity on the electroencephalogram (EEG). An EEG and an appropriate neurological assessment should be performed after the acute episode.	Statement. No change.	Amending regulation 4(5) makes epilepsy a relevant disability unless there has been a 10 year period free from epileptic seizure and epilepsy medication and subject to conditions including assessment by a neurologist. Liability to other types of seizure are a relevant disability by virtue of regulations 49(1) and 51(7) of the 1996 Regulations.
	12.11 Provoked epileptic seizure: the applicant who has had a provoked epileptic seizure because of a recognisable provoking factor that is unlikely to recur at the wheel can be declared able to drive on an	No change.	Provoked seizures are excluded from the new definition of epilepsy (both in the EU Directive and the 2013 Regulations). Such seizures are dealt with on an individual basis subject to the prescribed disabilities in regulations 49(1)

	individual basis, subject to neurological opinion. An EEG and an appropriate neurological assessment should be performed after the acute episode. A person with a structural intra-cerebral lesion who has increased risk of seizures should not be able to drive vehicles of group 2 until the epilepsy risk has fallen to at least 2% per annum. The assessment should be, if appropriate, in accordance with other relevant sections of Annex III (e.g. in the case of alcohol)		and 51(7) of the 1996 Regulations and detailed guidance in “At a Glance” which includes the 2% assessment of risk.
	12.12 First or single unprovoked seizure: the applicant who has had a first unprovoked epileptic seizure can be declared able to drive once five years freedom from further seizures has been achieved without the aid of anti-epileptic drugs, if there has been an appropriate neurological assessment. National authorities may allow drivers with recognised good prognostic indicators to drive sooner	No change.	Amending regulation 4(5) prescribes a 5 year seizure free period and neurological assessment as pre-conditions for a Group 2 licence following an isolated seizure.
	12.13 Other loss of consciousness: the loss of consciousness should be assessed according to the risk of recurrence while driving. The risk of recurrence while driving. The	No change.	Already implemented in Article 9 of the Order, regulations 49(1) and 51(7) of the 1996 Regulations and ‘At a Glance’.

	risk of recurrence should be 2% per annum or less.		
	12.14 Epilepsy: 10 years freedom from further seizures shall have been achieved without the aid of anti-epileptic drugs. National authorities may allow drivers with recognised good prognostic indicators to drive sooner. This also applies in case of “juvenile epilepsy”.	No change.	Amending regulation 4(5) makes epilepsy a relevant disability which debars from Group 2 driving, until the individual is free from seizures and from epilepsy medication for at least 10 years. Conditions must also be met.
	Certain disorders (e.g. arterio-venous malformation or intra-cerebral haemorrhage) entail an increased risk of seizures, even if seizures have not yet occurred. In such a situation an assessment should be carried out by a competent medical authority; the risk of having a seizure should be 2% per annum or less to allow licensing.	No change.	Already implemented in Article 9 of the Order, regulations 49(1) and 51(7) of the 1996 Regulations and “At a Glance”.

DEPARTMENT OF THE ENVIRONMENT

Transposition Table for Vision

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Existing EU Provision	New Provision in 2009/11/EC and 2009/113/EC	Objectives	Domestic Provisions
6. All applicants for a driving licence shall undergo an appropriate investigation to ensure that they have adequate visual acuity for driving power-driven vehicles. Where there is reason to doubt that the applicant's vision is adequate, he/she shall be examined by a competent medical authority. At this examination attention shall be paid, in particular, to the following: visual acuity, field of vision, twilight vision, and progressive eye diseases.	6. All applicants for a driving licence shall undergo an appropriate investigation to ensure that they have adequate visual acuity for driving power-driven vehicles. Where there is reason to doubt that the applicant's vision is adequate, he/she shall be examined by a competent medical authority. At this examination attention shall be paid, in particular, to the following: visual acuity, field of vision, twilight vision, glare and contrast sensitivity, diplopia and other visual functions that can compromise safe driving.	To ensure anyone applying for a driving licence has an appropriate level of eyesight, to ensure safe driving.	Overarching framework for disability provided by Articles 9-11 of the Order, which require the Department to refuse or revoke a licence where person is suffering from a relevant disability including one relating to eyesight. The definition of relevant disability in Article 9(2) is not exhaustive and includes any prescribed disability or any other disability which makes driving a "source of danger to the public". Article 11 of the Order enables the Department to investigate any medical condition at any time, including the power to require a medical examination. An eyesight examination is requested if any doubts are raised in initial licence application or otherwise. When taking an initial driving test all applicants must pass a practical eyesight assessment (the number plate test) – regulation 29 and Schedule 7 of the principal Regulations.
	For group 1 drivers, licensing may be considered in "exceptional	We will not be introducing "exceptional cases" for visual	Group 1 visual field standards and the conditions to allow

	cases" where the visual field standard or visual acuity standard cannot be met; in such cases the driver should undergo examination by a competent medical authority to demonstrate that there is no other impairment of visual function, including glare, contrast sensitivity and twilight vision. The driver or applicant should also be subject to a positive practical test conducted by a competent authority.	acuity. Where someone cannot meet the visual field standard, they are not automatically barred, from holding a driving licence and can be considered as an exceptional case, providing there is no other visual impairment and they can pass a practical test.	exceptions from these are prescribed in amending regulation 3 of the 2013 Regulations
Group 1			
6.1 Applicants for a driving licence or for the renewal of such a licence shall have a binocular visual acuity, with corrective lenses if necessary, of at least 0,5 when using both eyes together. Driving Licences shall not be issued or renewed if, during the medical examination, it is shown that the horizontal field of vision is less than 120°, apart from exceptional cases duly justified by a favourable medical opinion and a positive practical test, or that the person concerned suffers from any other eye condition that would compromise safe driving. Where a progressive eye disease is detected or declared, driving licences may be issued or renewed subject to the applicant	6.1 Applicants for a driving licence or for the renewal of such a licence shall have a binocular visual acuity, with corrective lenses if necessary, of at least 0,5 when using both eyes together.	To ensure anyone applying for a driving licence has an appropriate level of acuity, to ensure safe driving. This standard remains unchanged.	The existing number plate test prescribed in regulation 50(1) of the principal Regulations assesses ability to meet the EU eyesight standards. This sub-paragraph is amended by the 2013 Regulations and a new subparagraph (1A) inserted to make it clear that a failure to meet either the number plate test or the required acuity standard when measured on the Snellen scale will debar from licensing. There is an ongoing obligation on drivers to ensure they can satisfy this test which is enforced by a criminal offence specific to eyesight (Article 154 of the Order) which augments the general offence of failure to report a disability (Article 11(4)of the Order).

undergoing regular examinations by a competent medical authority.			
	Moreover, the horizontal visual field should be at least 120 degrees, the extension should be at least 50 degrees left and right and 20 degrees up and down. No defects should be present within a radius of the central 20 degrees. When a progressive eye disease is detected or declared, driving licences may be issued or renewed subject to the applicant undergoing regular examination by a competent medical authority.	Consideration is given to visual field, which is defined more precisely. Regular examinations are required if there is progressive eye disease, to ensure drivers are still safe to drive. This standards remains unchanged.	In addition: - Amending regulation 3 of the 2013 Regulations prescribes failure to the EU visual field and visual acuity standards as relevant disabilities; - Article 15(1)(c) of the Order restricts the period of a licence issued to a person with a progressive eye disease to 3 years to enable regular review; - More detailed guidance on eyesight is given in “At a Glance” and applied under Articles 9-11 of the Order, for instance covering glare, contrast sensitivity and twilight vision (defects for which the EU rules do not give a precise benchmark for the minimum standard required).
6.2 Applicants for a driving licence, or for the renewal of such a licence, who have total functional loss of vision in one eye or who use only one eye (e.g. in the case of diplopia) must have a visual acuity of at least 0,6, with corrective lenses if necessary. The competent medical authority must certify that this condition of monocular vision has existed sufficiently long time to allow	6.2 Applicants for a driving licence, or for the renewal of such a licence, who have total functional loss of vision in one eye or who use only one eye (e.g. in the case of diplopia) must have a visual acuity of at least 0,5, with corrective lenses if necessary. The competent medical authority must certify that this condition of monocular vision has existed for a sufficiently long time to allow	To ensure anyone with sight in only one eye (or diplopia) applying for a driving licence has an appropriate level of eyesight, to ensure safe driving. The standard is relaxed slighty and will be same as the standard for binocular vision.	The requirement of 0.5 visual acuity is dealt with by amending regulation 3 of the 2013 Regulations. The requirement for an adaptation period is dealt with in “At a Glance”.

adaptation and that the field of vision in this eye is normal.	adaptation and that the field of vision in this eye meets the requirement laid down in paragraph 6.1.		
	6.3 After any recently developed diplopia or after the loss of vision in one eye, there should be an appropriate adaptation period (for example, six months), during which driving is not allowed. After this period, driving is only allowed following a favourable opinion from vision and driving experts.	To ensure any loss of vision in one eye requires time off driving, while vision adjusts, driving can only resume after a favourable assessment.	Amending regulation 3 of the 2013 Regulations and the “At the Glance” guidance deal with diplopia and loss of vision in one eye (monocular vision)and adaption periods.
Group 2			
6.3 Applicants for a driving licence or for the renewal of such a licence shall have a visual acuity, with corrective lenses if necessary, of at least 0,8 in the better eye and at least 0,5 in the worse eye. If corrective lenses are used to attain the values of 0,8 and 0,05, the minimum acuity (0,8 and 0,5) must be achieved either by correction by means of glasses with a power not exceeding plus or minus 8 dioptres, or with the aid of contact lenses (uncorrected vision = 0.05). The correction must be well tolerated. Driving licences shall not be issued to or renewed for applicants or drivers without a normal binocular field of vision or suffering from diplopia.	6.4 Applicants for a driving licence or for the renewal of such a licence shall have a visual acuity, with corrective lenses if necessary, of at least 0,8 in the better eye and at least 0,1 in the worse eye. If corrective lenses are used to attain the values of 0,8 and 0,1, the minimum acuity (0,8 and 0,1) must be achieved either by correction by means of glasses with a power not exceeding plus eight dioptres, or with the aid of contact lenses. The correction must be well tolerated.	To ensure anyone applying for a Group 2 driving licence has an appropriate level of eyesight, to ensure safe driving. If corrective lenses are used to meet the minimum standards the power of the correction must be within limits and be well tolerated, this is because strong lenses can distort the field of vision.	Overarching framework is Articles 9-11 of the Order, as explained above. An inability to meet the minimum EU Group 2 standards (including by reason of diplopia) is a relevant disability, as prescribed in amending regulation 4 of the 2013 Regulations.

	Moreover, the horizontal visual field with both eyes should be at least 160 degrees, the extension should be at least 70 degrees left and right and 30 degrees up and down. No defects should be present within a radius of the central 30 degrees.	Consideration is given to visual field, which is now precisely defined.	Visual field standard specified in amending regulation 4 of the 2013 Regulations.
	Driving licences shall not be issued to or renewed for applicants or drivers suffering from impaired contrast sensitivity or from diplopia.	No Group 2 licence to be issued for impaired contract sensitivity or diplopia, to ensure safe driving of Group 2 vehicles.	
	After a substantial loss of vision in one eye, there should be an appropriate adaptation period (for example six months) during which the subject is not allowed to drive. After this period, driving is only allowed after a favourable opinion from vision and driving experts.	No Group 2 licence to be issued when there has been a substantial loss of vision, until there has been an appropriate adaption period, driving can only resume after a favourable assessment.	The requirement for an adaptation period is dealt with in “At a Glance”.