Explanatory Memorandum

The Motor Vehicles (Evidence of Test Certificates) Regulations 2004 No. 1896

1. This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 This instrument specifies the acceptable proof of a valid MOT test required to licence a vehicle and, where a test is not needed, specifies the declarations required. It revokes and replaces the Motor Vehicles (Production of Test Certificates) Regulations 1969. The main change is to provide for the option of using electronic records as an alternative to paper certificates as proof that a test certificate has been issued.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative background

4.1 This instrument is made under section 66(1) and (2) of the Road Traffic Act 1988 (1988 c. 52), which was amended by the Road Traffic (Vehicle Testing) Act 1999 (1999 c. 12) specifically to allow for use of electronic records of MOT tests.

4.2 The 1969 regulations require that a test certificate (i.e. a physical document) is produced in order to issue a vehicle licence to a vehicle that is required by section 47 to have such a certificate in force.

4.3 The Road Traffic (Vehicle Testing) Act 1999 amended the Road Traffic Act 1988 (s45(6B)(b)) amongst other things to empower the Secretary of State to maintain, or have maintained, records of the results of examinations (MOT Tests). It also empowered him (S66(2)(aa)) to make regulations allowing the use of these records as evidence of the granting of a test certificate when issuing vehicle licences.

4.4 This instrument replaces the 1969 regulations carrying forward the same provisions as the original but updating the references to primary legislation, making the form of declaration in the Schedule shorter and simpler for use in electronic transactions, and adding the alternative of using the records mentioned as evidence of a test certificate rather than requiring production of a physical certificate.

5. Extent

5.1 The instrument applies to Great Britain.

6. European Convention on Human Rights

6.1 A statement by the Secretary of State as to the compatibility of the Regulations is not required.

7. Policy background

7.1 The policy objective of section 66 of the Road Traffic Act 1988 (under which these regulations are made) is to ensure that a licence cannot be granted to a vehicle required to have a periodic roadworthiness test (an MOT test) unless there is evidence that the vehicle has a test certificate that is valid at the time that the new licence comes into force, or the person granting the licence is satisfied that the applicant is exempt under regulation 3(c) or (d). These regulations make the achievement of that objective less prone to fraud and simpler for applicants, by allowing electronic records to be used, rather than pieces of paper, to confirm test status. An example of a vehicle which could be the subject of a declaration in the Schedule is one used only on an island with no road connection to the mainland.

7.2 In practice electronic records created by the approved testers and held securely on behalf of the Secretary of State will be used. The instrument does, however, continue to allow for the alternative of using paper certificates both whilst the electronic database is being established and as a contingency should the access to the database be unavailable for any reason. The instrument, together with the availability of electronic vehicle insurance records and payments, will also enable vehicle licensing transactions to be carried out by telephone or over the Internet. Accordingly the declaration of exemption specified in the Schedule is one capable of being incorporated in an electronic licensing transaction.

7.2 A consultation was launched on 23 May 2003 and closed on 15 August 2003. Consultation packs were sent out to 510 organisations and individuals. The consultation was also posted on the Internet. 52 Replies were received. Of these:

- 47 expressed positive support for the proposal to replace the Motor Vehicles (Production of Test Certificates) Regulations 1969;
- 5 offered no comment on the proposal;
- no respondents opposed the proposal.

8. Impact

8.1 A Regulatory Impact Assessment is attached to this memorandum. There are no identifiable costs to the public directly attributable to this instrument.

8.2 The impact on the public sector is as follows. Post Office business processes for vehicle licensing are being updated and the availability of electronic records is one element in those changes. There are no identifiable costs to the exchequer directly attributable to this instrument.

9. Contact

9.1 John MacLellan at the Vehicle and Operator Services Agency, Berkeley House Annexe, Croydon Street, Bristol BS5 0DA, Telephone: 0117 954 3284 or E-mail: John.MacLellan@vosa.gsi.gov.uk can answer any queries regarding the instrument.