EXPLANATORY MEMORANDUM TO

THE GOODS VEHICLES (PLATING AND TESTING) (MISCELLANEOUS AMENDMENTS) REGULATIONS 2017

2017 No. 849

THE MOTOR VEHICLES (TEST) (AMENDMENT) REGULATIONS 2017

2017 No. 850

THE ROAD VEHICLES (CONSTRUCTION AND USE) (AMENDMENT) REGULATIONS 2017

2017 No. 851

AND

THE ROAD VEHICLES LIGHTING (AMENDMENT) REGULATIONS 2017

2017 No. 852

1. Introduction

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

2. Purpose of the instruments

2.1 These instruments transpose EU Directive 2014/45/EU on periodic roadworthiness tests for motor vehicles and their trailers and EU Directive 2014/47/EU on the technical roadside inspection of the roadworthiness of commercial vehicles circulating in the Union. In summary, the transposition is achieved by amending requirements to the roadworthiness testing schemes in the UK concerning certain specialised heavy vehicles, fast tractors and vehicles of historical interest by amending or updating the Road Traffic Act 1988 and the following Regulations:

- the Goods Vehicles (Plating and Testing) Regulations 1988 (SI 1988/1478);
- the Motor Vehicles (Tests) Regulations 1981 (SI 1981/1694);
- the Road Vehicles (Construction and Use) Regulations 1986 (SI 1986/1078);
- the Road Vehicles Lighting Regulations 1989 (SI 1989/1796).

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Other matters of interest to the House of Commons

3.2 As these instruments are subject to negative resolution procedure and have not been prayed against, consideration as to whether there are other matters of interest to the House of Commons do not arise at this stage.

4. Legislative Context

4.1 Directive 2014/45/EU on periodic roadworthiness tests for motor vehicles and their trailers establishes minimum requirements for a regime of roadworthiness tests of vehicles used on public roads. It repeals and replaces the substantially similar Directive 2009/40/EU and most of the core requirements for tests are unchanged.

4.2 The requirements of the previous Directive for goods vehicle testing are implemented by the Goods Vehicles (Plating and Testing) Regulations 1988 (as amended) ('the P and T Regulations') and for other motor vehicles by the Motor Vehicles (Tests) Regulations 1981 ('the Tests Regulations'). These two sets of Regulations also refer to two other sets of Regulations as the source of the technical testing requirements. These are the Road Vehicles (Construction and Use) Regulations 1986 ('the C and U Regulations') and the Road Vehicles Lighting Regulations 1989 ('the Lighting Regulations').

4.3 Much of the content of Directive 2014/45/EU remains the same and is therefore already implemented in UK law but there are some changes. For example, the new Directive extends testing to tractors with a design speed greater than 40 kilometres per hour (technically referred to as category T5 tractors) that are used mainly on the public road for commercial haulage. The Directive also includes an amended exemption for vehicles never, or hardly ever, used on public roads, such as vehicles of historical interest. The amendments to domestic Regulations take on board these changes. However, many of the new or amended items at Annex 1 of the Directive 2014/45/EU do not require a legislative change and some changes to roadworthiness tests are to be implemented through administrative processes.

4.4 Directive 2014/47/EU on the technical roadside inspection of the roadworthiness of commercial vehicles circulating in the Union repeals and replaces Directive 2000/30/EC. The Road Traffic Act 1988 contains powers for authorised examiners to conduct roadside inspections of such vehicles. The scope of this power is defined as the scope of Directive 2000/30/EC. The instruments thus amend the 1988 Act to update this reference, and extend the scope to include tractors.

4.5 A Transposition Note for Directive 2014/45/EU and Directive 2014/47/EU has been submitted with this Memorandum.

5. Extent and Territorial Application

5.1 The extent of this instrument is Great Britain

5.2 The territorial application of this instrument is Great Britain.

5.3 Separate but corresponding provision will be made for Northern Ireland.

6. European Convention on Human Rights

6.1 Jesse Norman MP has made the following statement regarding Human Rights:

"In my view the provisions of the Goods Vehicles (Plating and Testing) (Miscellaneous Amendments) Regulations 2017, are compatible with the European Convention on Human Rights."

6.2 As the Motor Vehicles (Tests) (Amendment) Regulations 2017, the Road Vehicles (Construction and Use) (Amendment) Regulations 2017 and the Road Vehicles Lighting (Amendment) Regulations 2017 are subject to negative resolution procedure and they do not amend primary legislation no statement is required for these instruments.

7. Policy background

What is being done and why

7.1 Vehicle design, technology and standards have significantly improved over recent years and those developments are reflected in changes to vehicle testing requirements. These Instruments are made to implement changes to the roadworthiness testing regime for certain classes of motor vehicles and trailers in accordance with Directive 2014/45/EU and, to a lesser extent changes to the roadside inspections regime for commercial vehicles in accordance with Directive 2014/47/EU. Periodic testing is the main regulatory intervention to ensure that vehicles are kept in a safe and environmentally acceptable condition during their use and to ensure that any serious deficiencies and defects are identified and remedied.

7.2 Under earlier EU provisions (Directive 2009/40/EC) Member States could make use of a derogation to exempt certain vehicles "operated or used in exceptional conditions" and vehicles which are "never, or hardly ever, used on public highways", including vehicles of historical interest which were manufactured before 1 January 1960 or which are temporarily withdrawn from circulation. This provision has been amended under Directive 2014/45/EU so that, provided certain conditions are met, Member States may exempt vehicles manufactured or registered for the first time at least 30 years ago. The Department has decided to take up the additional flexibility provided by the new Directive by replacing the existing pre-1960 exemption for old cars and motorcycles with a rolling exemption for vehicles over 40 years old (via amendments to the Tests Regulations). The new provision will mean that vehicles complying with the new criteria will not require an annual MOT. The new rules will not apply to public service vehicles (such as buses and coaches) carrying paying passengers nor will they apply to goods vehicles. Such vehicles will continue to be subject to the current pre-1960 exemption, unless the vehicle has been substantially changed in which case it will be subject to the relevant testing regime.

7.3 The Department is consulting on draft guidance for criteria on determining whether a vehicle has been substantially changed. The document is available on the Department website https://www.gov.uk/government/consultations/roadworthiness-testing-for-vehicles-of-historic-interest

7.4 On 23 June 2016, the EU referendum took place and the people of the United Kingdom voted to leave the European Union. Until exit negotiations are concluded, the UK remains a full member of the European Union and all the rights and obligations of EU membership remain in force. During this period the Government will continue to negotiate, implement and apply EU legislation.

Consolidation

7.5 The changes resulting from these amending regulations are minor and do not substantially change the application of the original Regulations. Given that vehicle testing is closely linked to EU legislation, it would not be sensible to consolidate these regulations until the UK has left the EU and the effect on these Regulations can be considered. Informal consolidations are available from a number of commercial sources.

8. Consultation outcome

8.1 Between 11th December 2014 and 5th March 2015, the Department for Transport (DfT) ran a public consultation on removing exemptions from periodic testing for some specialised heavy vehicles. The consultation received 70 responses from a range of industry stakeholders including trade associations, public sector bodies and individuals. There was broad support for the principle of bringing this group of vehicles into annual testing, primarily on road safety grounds. A summary of the responses to consultation was published on 30th July 2015. A copy of the summary and the original consultation and impact assessment are available to view at https://www.gov.uk/government/consultations/hgv-periodic-testing-and-inspections-exemptions. A government response is being published alongside these instruments.

8.2 Between 22nd September and 2nd November 2016, DfT ran a public consultation on the exemption from roadworthiness testing for vehicles of historical interest, and on making technical updates to the MOT and goods vehicle tests. The consultation received 2,217 responses. The original consultation and impact assessment are available at: https://www.gov.uk/government/consultations/roadworthiness-testing-for-vehicles-of-historic-interest A summary of the responses and a government response are being published alongside these instruments.

8.3 There was some support for our preferred option (an exemption for vehicles over 40 years old as vehicles of historical interest) but a majority of respondents were against it, by 1,130 (56%) to 899. The main argument against the exemption was that all vehicles used on the road should have a roadworthiness test, to maintain safety. We appreciate these concerns. However, we note that the Transport Research Laboratory estimated in 2011 that just 3% of road casualties could be associated with vehicle defects. Also vehicles over 40 years old are involved in fewer crashes per vehicle than the average and continued compulsory testing would be disproportionate. Owners of vehicles classified as vehicles of historical interest will still be able to submit their vehicles for voluntary tests and the police will retain their power to stop any vehicle they regard as potentially unsafe.

8.4 Between 22nd September and 2nd November 2016, DfT ran a public consultation on introducing roadworthiness testing for fast tractors (capable of over 40km/h) that are used for commercial haulage, and on making technical updates to the MOT and goods vehicle tests. The consultation received 39 responses, including from individuals, industry bodies, and other organisations. There was overall support for the proposals, though many wanted the changes to go further than the Directive and for roadworthiness testing to apply to tractors used for agriculture as well. The Government does not consider that this would be proportionate given that such tractors are only driven over a relatively small amount of road mileage each year. The consultation can be found at https://www.gov.uk/government/consultations/roadworthiness-testing-for-fast-

tractors-and-other-technical-changes-to-vehicle-testing. The summary of responses and government response is being published alongside these instruments.

9. Guidance

9.1 The MOT and Goods Vehicle Testing manuals will be updated by the time these new Regulations come into force to reflect the changes contained in these Regulations and to ensure that tests are carried out by vehicle inspectors in a consistent way. The manuals will assist vehicle owners in determining whether their vehicles will become subject to testing.

10. Impact

10.1 The impact on businesses of removing exemptions from testing certain heavy goods vehicle types is expected to be in the region of £7.4 million annually. This includes the test fee, and the cost of down-time for the vehicle and for the accompanying driver. The impact on businesses on amending the exemption for vehicles of historical interest is expected to be minimal. There is no impact on charities or voluntary bodies.

10.2 The impact on the public sector is expected to be minimal. DVSA estimate that the cost to them with respect to heavy goods vehicle testing in the first year will be around £454,000 at 2014 prices. The impact on DVSA as regards amending the exemption for vehicles of historical interest is expected to be negligible.

10.3 The costs of introducing testing for fast tractors has been considered. This is expected to be a low cost measure affecting a very small number of vehicles (estimated to be around 180). Therefore, an Impact Assessment has not been prepared for this proposal. The cost to individual vehicle operators is estimated to be similar to heavy goods vehicle testing, with a total cost (after time and fuel is accounted for) of £362 per vehicle.

11. Regulating small business

11.1 The legislation applies to activities that are undertaken by small businesses.

11.2 The legislation and the regulatory obligations that it creates apply equally to all vehicle owners, including small businesses.

12. Monitoring & review

12.1 The amendments made to Regulations by Instruments included in this Memorandum include a requirement to review the new provisions after they have been in force for five years, and for further reviews to be made every five years thereafter.

13. Contact

13.1 Paul Wainwright at the Department for Transport (telephone: 07717 362347 or email: paul.wainwright@dft.gsi.gov.uk) can answer any queries regarding the instruments.