EXPLANATORY MEMORANDUM TO

The Motor Vehicles (Wearing of Seat Belts by Children in Front Seats) (Amendment) Regulations (Northern Ireland) 2015

S.R. 2015 No. 23

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 Article 24(1) and (6) of the Road Traffic (Northern Ireland) Order 1995 and is subject to the negative resolution procedure.

2. Purpose

2.1. The purpose of the Regulations is to amend the Motor Vehicles (Wearing of Seat Belts by Children in Front Seats) Regulations (Northern Ireland) 1993 to implement the requirements of Council Directive 2014/37/EC (OJ No. L 59 28.2.2014, p32).

3. Background

3.1. The EU is seeking to amend EU Directive 2004/44/EC to reflect a new standard for Enhanced Child Restraint Systems. This is in respect of UNECE Regulation 129 - uniform provisions concerning the approval of enhanced Child Restraint Systems used on-board of motor vehicles which was implemented into EU law through Directive 2014/37/EU on 28 February 2014.

3.2. UNECE Regulation 129 is intended to provide additional safety benefits over and above existing standards in Child Restraint Systems. The Regulation sets provisions for a number of technical enhancements to the existing regulatory requirements including: restraint categorisation; crash test dummy; test bench; side impact dynamic test and travelling orientation.

4. Consultation

4.1. A UK-wide consultation was administered by the Department of Transport (DfT) on 24 January 2014 and concluded on 21 February 2014. The consultation document was sent to relevant stakeholders with an interest in child safety in Northern Ireland. No responses were received from consultees in NI, however all of the GB responses supported the amendment of legislation to allow the use of products conforming to UNECE Regulation 129.

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 Regulatory Impact Assessment has been completed and the Department is satisfied that the road safety benefits justify the introduction of the new standard.

7. Financial Implications

7.1. None.

8. Section 24 of the Northern Ireland Act 1998

8.1. There are no matters of concern relating to compatibility with section 24 of the Northern Ireland Act 1998.

9. EU Implications

9.1. Implementation of this Regulation is an EU requirement.

10. Parity or Replicatory Measure

10.1. The Regulations replicate the proposed GB amendment to the Motor Vehicles (Wearing of Seat Belts by Children in Front Seats) Regulations 1993 SI 1993/31.

11. Additional Information

11.1. None.

Regulatory Impact Assessment

1.Title of Proposal

Implementation of UNECE Regulation 129 adopted by the European Commission under Directive 2014/37/EU which amends Council Directive 91/671/EEC through the following amending Regulations:

The Motor Vehicles (Wearing of Seat Belts) (Amendment) Regulations (Northern Ireland) 2014; and

The Motor Vehicles (Wearing of Seat Belts by Children in Front Seats) (Amendment) Regulations (Northern Ireland) 2014

2. Purpose and intended effect of measure

Objective

This draft Regulatory Impact Assessment supports the implementation in Northern Ireland of UNECE Regulation 129 adopted by the European Commission under Directive 2014/37/EU.

The objective of this proposal is to:

1) make amendments to existing Motor Vehicles (Wearing of Seat Belts) Regulations (NI) 1993 and Motor Vehicles (Wearing of Seat Belts by Children in Front Seats) Regulations (NI) 1993; and

2) ensure legal and administrative provisions are in place to permit use of enhanced Child Restraint Systems in Northern Ireland to prevent an infringement of the Directive which states that paragraph 1. Article 2 shall come into force by **18 September 2014.**

Background

The United Nations Economic Commission for Europe (UNECE) has developed new uniform provisions concerning the approval of enhanced child restraint systems used on board motor vehicles. The UNECE Regulation 129 has been adopted by the European Commission under Directive 2014/37/EU.

Regulation 129 introduces enhanced child restraint systems which are intended to provide additional safety benefits over and above existing standards in Child Restraint Systems UNECE Reg 44).

The new Regulation will ultimately replace the current UN Regulation 44 standard, which has been in place for many years.

The phases and current state of the new i-size regulation are as follows:

Phase 1 (i-Size) Integral harness ISOFIX - which came into force on 9 July 2013. The Department is currently adapting domestic legislation to allow its' use in this country.

Phase 2: Non-integral child restraint system (booster seats and cushions for older children) - under development in Europe and planned for introduction in 2015

Phase 3: Belted Integral harness – still an open cogitation

Once all three phases of the new Regulation 129 are finalised, old style child restraint systems will disappear gradually from the market but in the meantime will co-exist with the new standard.

Phase 1 of the new Regulation makes a number of technical enhancements to the existing regulatory requirements, including:

- Restraint categorisation – Amends the method in which restraints are categorised from one based on a child's mass to one based on their height;
- Crash Test dummy – Adopts a new type of child crash test dummies which are an improvement on the existing series of dummies;
- Test Bench – Modifies the existing test bench to ensure that it is more representative of the modern day vehicle fleet;

- Side Impact dynamic test – Introduces a new side impact test; and
- Travelling orientation – mandates a rear facing orientation for restraint systems approved for children up to the age of 15 months.

Intended Effect

The intended effect of permitting the use of these enhanced child restraint systems is to reduce the numbers of fatalities and serious injuries in babies and toddlers who are involved in road traffic collisions, through :

- Better protection for the head and neck of babies and toddlers due to rearward facing transport until the age of 15 months;
- Improved child safety due to the side impact being part of the approval test for new i-Size standard child car seats;
- Less risk of being incorrectly fitted due to use of ISOFIX anchorage points; and
- Easier selection of correct seats due to change from categorisation by weight, to categorisation by age and height of the child.

Risk Assessment

The Department is obliged under European Community (EC) Law to implement the Directive. Failure to do so would be a breach of such legal obligations and would expose the UK, as a Member State, to infraction proceedings and potentially Northern Ireland to significant financial penalties.

3. Options

Option 1: Maintain the status quo – retain UNECE regulation 44 as the only standard for Northern Ireland

This is not a viable option. GB intend to introduce the new regulation. NI would be the only region in the UK not allowing use of the enhanced system.

Northern Ireland would not be compliant with the Directive; the likely outcome would be infraction proceedings and a significant financial fine.

We understand that Phase 3 of Regulation 129 planned for 2018 will make the use of i-Size seats in cars fitted with ISOFIX anchorage points mandatory. Child Restraint Systems manufactured to Reg 44 standard and used in cars with ISOFIX anchorage points will then no longer be compliant with European standards.

However if NI does not amend its existing legislative provision, Child Restraint Systems which conform to the new European Standard would technically not be permitted in Northern Ireland. By purchasing and installing such systems, local consumers would be in breach of NI legislation – which in turn would not be compliant with the requirements of the European Directive.

Finally, in the longer term, parents wishing to purchase new car seats at the old standard may not be able to do so, because they are no longer available. This could lead to parents purchasing second hand car seats through Charity Shops and private sales - a practice that NI does not currently encourage.

Option 2: Allow for use of enhanced Child Restraint System

Amendments to NI specific Seat Belt wearing legislation will allow the use of enhanced child restraint systems and will ensure that parents of babies and toddlers in NI have access to the highest standard of protection for their children whilst travelling in a motor vehicle.

4. Benefits

Option 1: Maintain the status quo – retain UNECE regulation 44 as the only standard for Northern Ireland

The benefits associated with retaining the current standard of Child Restraint Systems are limited. The old standard will offer babies and Toddlers a certain level of protection if involved in a Road traffic collision. However, medical evidence would suggest that where babies and Toddlers are involved in road

traffic collisions, the new standard is designed to reduce the risk and impact of head and neck injuries .

Option 2: Allow use of enhanced Child Restraint System

Most Child Seats on the market are currently designed to be fitted by using a car's adult lap and diagonal seat belt. However, car seat shapes, seat belt lengths and their anchorage points can vary dramatically between different models of cars. These factors make it impossible to make a child car seat that fits all cars, and can sometimes make it tricky to fit a child car seat correctly.

The new ISOFIX system is designed to solve all these problems and to improve the performance of child seats by rigidly attaching them to the car's structure. The ultimate aim is that any ISOFIX child car seat you buy will fit your car simply by plugging it into the location points.

There are likely to be huge road safety benefits for introducing Regulation 129 in to Northern Ireland legislation:

- Better protection for the head and neck of babies and toddlers due to rearward facing transport until the age of 15 months;
- Improved child safety due to the side impact being part of the approval test for new i-Size standard child car seats;
- Less risk of being incorrectly fitted due to use of ISOFIX anchorage points; and
- Easier selection of correct seats due to change from categorisation by weight, to categorisation by age and height of the child.

5. Costs

Option 1: Maintain the status quo – retain UNECE regulation 44 as the only standard for Northern Ireland

This would leave NI potentially subject to infraction proceedings, and consequently a proportionate financial fine from the EU Commission.

There may also be a cost to manufacturers in terms of lost sales in Northern Ireland. This could be used to highlight NI's failure to implement the requirements of the Directive.

Finally, long-term availability of car seats at the UNECE Reg 44 standard would prove problematic as car and car seat manufacturers move towards production of ISOFIX systems in cars as standard.

Option 2: Allow use of enhanced Child Restraint System

Consumers

The new i–Size regulation does not replace the current regulation, nor will it lead to the replacement of any car seat currently in use. Therefore – while the new systems are relatively more expensive at this point in time – there is no immediate need, nor obligation for consumers to replace their current child car restraint system with a new i-Size model.

During the transitional period, it will still be possible for parents to buy an ECE Reg44 child restraint system. With the introduction of i-Size, consumers will be given an extra option (that complies with the new safety standard) to choose from when buying a car child restraint system.

As consumers will continue to have the choice between existing approved child restraint systems and new products brought to the market under Regulation 129, there is considered to be no immediate additional financial burden on them at this time. Moreover, the cost of the new systems is likely to fall as we move towards full implementation of the Directive – and more new style seats become available on the market.

We understand that Phase 3 of Regulation 129 will ultimately make the use of i-Size seats in cars fitted with ISOFIX anchorage points mandatory - but that is unlikely to be introduced until 2018.

Manufacturers

It is likely that there will be variations in the costs that are incurred by manufacturers, and passed on to consumers. These, will depend on a number of factors including:

- The extent to which existing designs already exceed current requirements and would need to be modified to pass the new ones;
- The existing profit margin and the effects of any increased process on that product's competitive positioning relative to other products; and
- The capability and capacity of the manufacturer to develop and manufacture new designs cost effectively.

6. Small Business Impact

The Department does not consider that there will be a significant cost impact on the small business sector particularly those who sell Child Restraint Systems as any associated costs in implementing the new standard are likely to be passed on to the consumer.

7. Enforcement and Sanctions

Responsibility for the enforcement of use of Child Restraint Systems will remain with the Police Service of Northern Ireland (PSNI).

8. Other Impact Assessments

An equality screening exercise has been carried out and no equality implications have been identified. There are also no human rights, environmental, rural or health issues involved in relation to this proposed measure and it will have no impact on development, sustainable or otherwise.

9. Monitoring and Review

The Department will continue to monitor the effectiveness of existing seatbelt wearing.

10. Consultation

Although issues on seat belts and child restraints are a transferred matter, the required changes stem from the EC and apply UK-wide. It was therefore considered appropriate, on this occasion, for DfT to lead a UK-wide consultation with input from the Department as required.

The consultation ran from 24 January to 21 February 2014 and although the consultation document was specifically sent to relevant stakeholders with an interest in child safety in NI, there were no responses received from anyone in Northern Ireland.

All of the GB stakeholders who responded to the consultation exercise supported the amendment of legislation to allow the use of products conforming to UNECE Regulation 129.

11. Summary and Recommendation

The Department is committed to proceeding with implementing Regulation 129 and applying the necessary amendments to the Motor Vehicles (Wearing of Seat Belts) Regulations (NI) 2003 and The Motor Vehicles (Wearing of Seat Belts by Children in Front Seats) Regulations (NI)2003.

12. Declaration

"I have read the Regulatory Impact Assessment and I am satisfied that the road safety benefits justify the introduction of this new standard".

Signed: Donald Starritt

Date: 5 November 2014