EXPLANATORY MEMORANDUM TO

THE PASSENGER AND GOODS VEHICLES (TACHOGRAPHS) (AMENDMENT) REGULATIONS (NORTHERN IRELAND) 2019

2019 No. 194

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 section 2(2) of, and paragraph 1A of Schedule 2 to, the European Communities Act 1972 and Article 83(1) of the Road Traffic (Northern Ireland) Order 1981 and is subject to the negative resolution procedure.

2. Purpose

2.1. The purpose of the Regulations covered by this Memorandum is to give effect to Commission Implementing Regulation (EU) 2016/799 ("the 2016 Regulation"), which introduces new requirements in relation to a more advanced type of tachograph, referred to as a "smart tachograph".

2.2. The Regulations amend the Passenger and Goods Vehicles (Recording Equipment) Regulations (NI) 1996 ("the 1996 Regulations") to enable enforcement provisions to apply in relation to these smart tachographs.

2.3. The Regulations also make minor consequential amendments to the Drivers' Hours and Tachograph (Amendment) (EU Exit) (No. 2) Regulations 2019 (SI 2019 No. 596), which corrects deficiencies in EU law relating to tachographs, in order to ensure that provisions in domestic law relating to tachographs will apply effectively from EU Exit day.

3. Background

3.1. Tachographs are required by EU law to be fitted to most large vehicles engaged in the carriage of goods or passengers by road. They record drivers' compliance with the EU Drivers' hours rules and enable effective enforcement of those rules.

3.2. Regulation (EU) No. 165/2014 ("the 2014 Regulation"), which was introduced in 2016, sets down requirements for the construction, testing, installation, operation and repair of tachographs and their components. It introduced a new generation of digital tachographs aimed at reducing fraud, allowing for easier enforcement and reducing administrative burdens on drivers.

3.3. The 2014 Regulation also provided for detailed provisions relating to smart tachographs to be set out in further implementing acts. Those implementing acts were adopted through Commission Implementing Regulation (EU) 2016/799 ("the 2016 Regulation"), which came into force on 2nd March 2016 and provided for the new requirements to apply in respect of relevant vehicles first registered on or after 15th June 2019

3.4. In domestic law, where a vehicle is required to be fitted with a tachograph, that tachograph must have been installed, comply with or be used in accordance with the 2014 Regulation. A person who uses a vehicle in breach of any one of those requirements may commit an offence. The 1996 Regulations, therefore, now need to be updated so that they will also provide for breaches of the new smart tachograph requirements introduced by the 2016 Regulation.

4. Consultation

4.1. A formal consultation exercise was undertaken jointly by the Department for Transport ("DfT") and this Department in relation to the implementation of the 2014 Regulation in 2016. Dft has since engaged with industry in advance of the 2016 Regulation coming into force and consider that, as the policy approach is being maintained, that a further consultation is not necessary. The Department is content with the approach adopted by DfT and does not consider that further consultation is necessary.

4.2. The Explanatory Memorandum to the Drivers' Hours and Tachographs (Amendment) (EU Exit) (No. 2) Regulations 2019 sets out details of consultations undertaken in relation to those Regulations. As the policy approach of those Regulations is being maintained in respect of these Regulations no additional consultations have been undertaken.

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 proposals and concluded that they do 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.

6. Regulatory Impact

6.1. The Department concluded that a Regulatory Impact Assessment ("RIA") is not necessary as the costs and benefits to business are expected to be minimal and there will be no significant impact on business, charities, the voluntary sector or the public sector. Drivers and operators of heavy goods and passenger vehicles are already obliged to comply with the existing EU Tachographs Requirements, they will not have to change their behaviour as a result of these Regulations.

7. Financial Implications

7.1. There are no significant financial implications arising from the introduction of the Regulations.

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. The Regulations are necessary to to give effect to Commission Implementing Regulation (EU) No. 2016/799 which introduces new requirements in relation to smart tachographs.

9.2 These Regulations will have a consequential effect on amendments being made to the Passenger and Goods Vehicles (Recording Equipment) Regulations (Northern Ireland) 1996 on EU Exit day by the Drivers' Hours and Tachographs (Amendment) (EU Exit) (No. 2) Regulations 2019. These Regulations therefore include some minor consequential amendments to those EU Exit Regulations to ensure that they have the appropriate effect when they come into force.

10. Parity or replicatory measure

10.1 The Regulations replicate a Great Britain Statutory Instrument which was laid in draft before Parliament on 18th July 2019 for approval by resolution of each House of Parliament.

11. Additional information

11.1. None