

EXPLANATORY MEMORANDUM TO
The Motor Vehicles (Driving Licences) (Amendment) Regulations (Northern Ireland) 2012

SR 2012 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 Section 2(2) of the European Communities Act 1972 and Articles 5(3) and (4), 13(3), 14(4), 19C(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. The purpose of these Regulations is to amend the Road Traffic (Northern Ireland) Order 1981 and the Motor Vehicles (Driving Licences) Regulations (Northern Ireland) 1996 in order to comply with Directive 2006/126/EC on Driving Licences (the 3rd EC Directive).

3. Background

- 3.1. The United Kingdom rules on driver licensing and driving tests currently operate within the framework Directive 91/439/EEC on Driving Licences (the 2nd EC Directive), which was adopted in 1991. This provides for mutual recognition of driving licences between member states of the European Economic Area (EEA), and harmonisation of licensing categories and driving test standards.
- 3.2. The 3rd EC Directive goes a stage further than the 2nd EC Directive, by harmonising definitions of vehicle sub-categories and rules on the duration and validity of a licence. Furthermore, it introduces minimum standards for driving examiners and attempts to ensure that no one can at any one time possess more than one licence issued by an EEA state.
- 3.3. In particular the Regulations provide for:
 - changes to licensing categories of motorcycles, including a new medium sized category, with the associated introduction of a new motorcycle test which will mirror the two existing motorcycle tests in terms of content, duration and fee;
 - changes to the minimum age for motorcyclists, including setting the minimum age at 24 for motorcyclists gaining direct access to the most powerful motorcycles;
 - the introduction of progressive access for younger motorcyclists who wish to ride larger more powerful machines; and

- requiring drivers of medium and large buses and lorries to renew their licences every five years (the present UK requirement is five-yearly renewal only after age 45, and ten-yearly renewal before age 45).
- 3.4. The Regulations also implement point 5.2 of Annex II to Council Directive 91/439/EEC which sets out the Real Total Mass required for vehicles of certain categories and combinations during practical driving tests.

4. Consultation

- 4.1. A UK wide public consultation was carried out between February and April 2004 on the European Commission's proposals for a 3rd EC Directive on Driving Licences, to help ensure that the UK's negotiating position was well-informed. The consultation document was distributed to around 300 organisations that would be affected by the Commission's proposals and 62 responses were received. More recently, between January and April 2010, public consultation was carried out in Northern Ireland on the Department's approach to implementing the requirements of the 3rd Directive.
- 4.2. The issue which attracted most comment was that of progressive access to larger categories of motorcycle. At the time the Department decided not to introduce a training route to progressing through the motorcycle categories or, for car drivers, to towing a medium sized trailer. The Department is initially proceeding with the testing option but will revisit the training option post-implementation, and will include stakeholders in the development of any such training.
- 4.3. The consultation document and consultation report are available from www.doeni.gov.uk

5. Equality Impact

- 5.1. In accordance with its duty under Section 75 of the Northern Ireland Act 1998, the Department conducted screening exercises on the proposals for the implementation of the 3rd Directive on Driving Licences and on the proposals to introduce the Real Total Mass requirements and concluded that they do not have significant implications for equality of opportunity. The measures will not affect any radical group disproportionately. In light of this, the Department considers that an equality impact assessment is not necessary.

6. Regulatory Impact

- 6.1. Regulatory Impact Assessments were included as part of the consultation process and are available from www.doeni.gov.uk.

7. Financial Implications

- 7.1. Not applicable

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 there are no matters of concern.

9. EU Implications

- 9.1. The amendments are necessary in order to comply with EC Directive 2006/126 and Council Directive 91/439/EEC as amended by Directives 2000/56 and 2008/65.

10. Parity or Replicatory Measure

- 10.1. The Department of Transport in Great Britain has introduced similar amendments to the Motor Vehicles (Driving Licences) Regulations 1999 (SI2012/977).

11. Additional Information

- 11.1. Not applicable.

REGULATORY IMPACT ASSESSMENT

1. Title of Proposal

Implementation of the Third European Commission (EC) Directive on Driving Licences (2006/126/EC) (“the 3rd Directive”)

2. Purpose and intended effect of measure

(i) Objectives

The main objectives of the 3rd Directive are to help:

- combat driving licence fraud and impersonation;
- improve road safety; and
- facilitate free movement of persons changing their place of residence from one Member State to another.

(ii) Background

UK rules on driver licensing and testing currently operate within the framework of the 2nd EC Directive on Driving Licences (Directive 91/439/EEC), adopted in 1991. In essence this provides for mutual recognition of driving licences between Member States of the European Union (EU) and the European Economic Area (EEA) and harmonisation of the licence categories and driving test standards.

The 3rd Directive was adopted at the end of 2006. Its provisions must be transposed into national law by January 2011. The Directive allows a further two years for implementation; changes will therefore come into practical effect by 19 January 2013. It goes a stage further than the 2nd Directive by harmonising definitions of vehicle sub-categories and rules on the duration of the validity of a licence. Furthermore, it introduces minimum standards for driving examiners and qualification arrangements for learner moped and motorcycle riders within new staged access arrangements and attempts to ensure that no-one can at any time possess more than one licence issued by an EU or EEA State.

(iii) Risk Assessment

The main risks the proposals address include:

- infraction proceedings due to non-compliance with an EC Directive;
- continuing legal uncertainty for many Europeans who move to another Member State, due to the current lack of harmonisation of driver licensing systems; and
- reduced opportunity to improve road safety.

3. Options

Option 1: Do nothing

It is a requirement of Community law that EU legislation is implemented in an effective, timely and proportionate manner. If NI, as part of the UK Member State, failed to comply, the European Commission would take infraction proceedings against the UK which could result in significant financial penalties and embarrassment for the government.

To do nothing is not, therefore, a viable option, denying as it would the UK's legal obligations and leading to breaches of the 3rd Directive.

Option 2: Complete implementation of the requirements of the 3rd Directive

Our approach is, where possible, to exercise those options contained in the 3rd Directive which allow us to continue current practice. Where we cannot avoid change, we plan to accommodate our own priorities and otherwise to do the minimum amount necessary to comply with the 3rd Directive.

4. Benefits

Option 1

- No implementation costs; and
- No resource requirements (this would be off-set by infraction costs)

Option 2

- Avoidance of financial penalty costs arising from infraction proceedings;
- Positive contribution to combating driving licence fraud and impersonation;
- Positive contribution to road safety;
- Harmonisation of driver licensing across Member States; and
- Facilitation of free movement of persons changing their place of residence from one Member State to another

Business sectors affected

The proposals will primarily affect individual drivers and motorcyclists. However, employers may choose to meet the costs for the individual.

Other Impact Assessments

There are no equality, human rights, environmental, privacy, rural or health issues involved.

In addition, the proposed measures will have no impact on development, sustainable or otherwise.

5. Costs

(i) Compliance costs

Option 1

None

Option 2

As indicated above, the proposals will primarily affect individual drivers and motorcyclists.

(ii) Other costs

Option 1

As indicated above, there could be significant financial penalty costs arising from infraction proceedings, due to non-implementation of the 3rd Directive.

Option 2

There would be implementation costs for DVA and it is estimated that these would amount to £2.7million. It is also estimated that operating costs of £175k (plus annual increase) per annum would be required thereafter.

The Directive introduces new categories and a variety of methods for motorcycle licence upgrades. The Directive allows member states to provide a training event, a test event or both under the progressive access route for motorcycles. Based on GB's analysis, the cheapest route in terms of public expenditure is a "test" based system. At the time of consultation, we proposed not to implement a training event in addition to or instead of a test event. However, having taken into consideration the comments received during the consultation process, the Department decided to proceed with the implementation of the testing option for motorcycle licence acquisition, and post-implementation to revisit the training option and to include stakeholders in the development of any such training.

6. Consultation with small business: the Small Business Impact Test

There should be low overall impact from the proposed changes to small business. For changes that lead to an increase in driving licence fees the assumption is that the cost of the licence is likely to be met by the applicant unless specific arrangements for reimbursement have been agreed with the employer. Also applicants are expected to complete their own application forms and provide supporting evidence themselves.

In Northern Ireland there are currently two motorcycle categories – A1 and A. Once the Directive is introduced there will be three motorcycle categories (A1, A2 and A) and minimum age requirements will apply for each category. The minimum test vehicle for each motorcycle category will also change once the Directive is introduced, please see below:

Vehicle Category	Minimum test vehicle	
	Pre-Directive	Post-Directive
A1	Motorcycle between 75cc and 120cc	Motorcycle of at least 120cc and no more than 125cc. Power output not exceeding 11kW (14.6bhp) and capable of a speed of at least 90km/h (55mph)
A2	N/A	Motorcycle of at least 395cc. Engine power of at least 25kW (33bhp) not exceeding 35kW (46.6bhp) and power to weight ratio not exceeding 0.2kW/kg not derived from a vehicle more than double its power
A	Motorcycle over 120cc but not more than 125cc, capable of 100 km/h	Motorcycle of at least 595cc and engine power of at least 40kW (53.6bhp)

The majority of approved motorcycle instructors (AMIs) in Northern Ireland operate on their own or as a small business and will face potential costs of having to purchase larger motorcycles to meet the requirements of the new motorcycle test categories, if they choose to provide motorcycles for the use of their customers. However, there is no requirement for AMIs to provide motorcycles in this way. In addition, as an offset to any potential additional costs, instructors may notice an increase in business due to the introduction of a progressive/staged access route to larger motorcycles and the caveat that learner riders of category A2 and A motorcycles must be accompanied at all times by an AMI when riding on a public road.

DVA will endeavour to keep the motorcycle instruction industry fully informed of the Directive's requirements. Representatives from the motorcycle instruction industry

are included on the Department's stakeholder group which provides input to the proposals for implementing the Directive in Northern Ireland.

7. Enforcement and Sanctions

There will be no new enforcement implications or sanctions needed directly as a result of implementation of these proposals. Driver checks would need to be made in relation to the current driver licensing regime.

8. Monitoring and Review

The 3rd Directive must be in national legislation by 19 January 2011 and put into practice by 19 January 2013. The intention is to review it after three years from implementation as part of a wider EU review.

9. Consultation

Department for Transport carried out a UK-wide public consultation between February and April 2004 on the European Commission's proposals for a 3rd EC Directive on Driving Licences, to help ensure that the UK's negotiating position was well informed. The consultation document was distributed to around 300 organisations that would be affected by the Commission's proposals and 62 responses were received.

More recently, between 25 January and 30 April 2010, public consultation was carried out in Northern Ireland on the Department's approach to implementing the requirements of the 3rd Directive. In total, eighteen consultees responded, five of whom did not express any views on the proposals. There was a mixed response from the remaining thirteen consultees, with four of the proposals receiving positive reactions only and seven both positive and negative.

Having taken into consideration the comments received during the consultation process, the Department decided to proceed as proposed in the consultation document with the exception that it is no longer intended to introduce a compulsory familiarisation course to validate provisional A2 and A licences under the progressive access arrangements. The Department is initially proceeding with the testing option but will revisit the training option post implementation of the testing option, and will include stakeholders in the development of any such training. The responses to the Consultation and the proposed way forward were cleared by the Minister on 26 October 2010.

10. Summary and Recommendation

The 3rd Directive contains several provisions where Member States are given options. The Department's recommended approach is, where possible, to exercise those

options which allow us to continue current practice. Where we cannot avoid change we plan to accommodate our own priorities and do the minimum amount necessary, at the least possible cost, to comply with the 3rd Directive.

11. Declaration

“I have read the Regulatory Impact Assessment and I am satisfied that the benefits justify the costs.”

Signed

Iain Greenway

Date

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