

<b>Title:</b> Modernising the arrangements for Disabled Approved Driving Instructors  <b>IA No:</b> DfT00203  <b>Lead department or agency:</b> Driving Standards Agency  <b>Other departments or agencies:</b> Cabinet Office	<b>Impact Assessment (IA)</b>			
	<b>Date:</b> 26/03/2013			
	<b>Stage:</b> Consultation			
	<b>Source of intervention:</b> Domestic			
	<b>Type of measure:</b> Primary legislation			
<b>Contact for enquiries:</b> Adam Peters Adam.Peters@dsa.gsi.gov.uk				

<b>Summary: Intervention and Options</b>	<b>RPC Opinion:</b> RPC Opinion Status
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Cost of Preferred (or more likely) Option			
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Measure qualifies as One-Out?
£0m	£0m	£0m	Yes   Out

**What is the problem under consideration? Why is government intervention necessary?**  
At present, legislation places a requirement on persons with a medically restricted driving licence wishing to qualify as Approved Driving Instructors (ADIs) to pass an assessment of their ability to intervene in an emergency. We consider that this is unnecessary, as this competence is assessed during the qualification process. Legislation also prevents *Disabled ADIs* from giving instruction in a manual transmission vehicle, even to a full licence holder. Based on existing evidence, this restriction is difficult to justify. Government intervention is necessary to make these changes as the provision of instruction in the driving of a motor car is a regulated activity.

- What are the policy objectives and the intended effects?**
- Ensure that all ADIs know how to, and are able to, take control of the vehicle in which they are giving instruction in an emergency.
  - Remove restrictions on *Disabled ADIs* which are difficult to justify.
  - Avoid any overall increase in the regulatory burden.
  - Ensure that any resulting compliance activity is risk-based.
  - Ensure that the proposals do not dilute existing safeguards for learner drivers and other road users.
  - Avoid duplication of Health & Safety requirements for ADIs.

**What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)**  
Do nothing.  
**Option 1** - DSA's preferred option. We would remove the separate category and qualification arrangements for *Disabled ADIs* – subsequently removing the offence of a *Disabled ADI* delivering paid instruction in a manual vehicle to a full licence holder. The Registrar would be granted the power to require any ADI to undergo an Emergency Control Assessment (ECA).  
**Option 2** - The qualification route for *Disabled ADIs* would remain the same, but we would still give the Registrar the power to require any potential or qualified instructor to take an ECA. We would also remove the offence relating to *Disabled ADIs* delivering paid instruction in a manual vehicle where the trainee holds a full driving licence will be removed.  
**Option 3** - The qualification route for *Disabled ADIs* would remain the same. We would only remove the offence of *Disabled ADIs* delivering paid instruction in manual cars to full driving licence holders.

<b>Will the policy be reviewed?</b> It will be reviewed. <b>If applicable, set review date:</b> 01/2022					
Does implementation go beyond minimum EU requirements?			N/A		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.		<b>Micro</b> Yes	<b>&lt; 20</b> Yes	<b>Small</b> Yes	<b>Medium</b> Yes
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)		<b>Traded:</b> n/a		<b>Non-traded:</b> n/a	

**I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.**

Signed by the responsible Minister STEPHEN HAMMOND Date: 15/04/2013

## Summary: Analysis & Evidence

## Policy Option 1

**Description:** We would remove the separate category and qualification arrangements for *Disabled ADIs* – subsequently removing the offence of a *Disabled ADI* delivering paid instruction in a manual vehicle to a full licence holder. The Registrar would be granted the power to require any ADI to undergo an Emergency Control Assessment (ECA).

### FULL ECONOMIC ASSESSMENT

Price Base Year 2012	PV Base Year 2012	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: £0m	High: £0m	Best Estimate: £0m

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	£0m	0	£0m
High	£0m	0	£0m
Best Estimate	£0m	0	£0m

#### Description and scale of key monetised costs by 'main affected groups'

The estimated monetised impacts are de minimus. We estimate that the ADI Registrar will require very few instructors to take the ECA - at a cost to DSA of £224 per assessment (High of 5 per year is £1,119p.a or Low of 1 every 10 years at £23 p.a).

The cost to instructors of the Registrar required ECA would be between £12 and £2,264 annually. Users of the service could travel from anywhere in GB. The use of the "High" and "Low" travel distances used in the evidence base are insufficient to monetise these travel costs.

#### Other key non-monetised costs by 'main affected groups'

None

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	£0m	0	£0m
High	£0m	0	£0m
Best Estimate	£0m	0	£0m

#### Description and scale of key monetised benefits by 'main affected groups'

The estimated monetised impacts are de minimus. DSA will save £2,649 annually from not requiring potential *Disabled ADIs* to complete an ECA. There will be cost savings for Disabled ADIs of £119 to £453 each or £595 to £6,792 to the Disabled ADI industry

#### Other key non-monetised benefits by 'main affected groups'

*Disabled ADIs* will be free to provide paid instruction to a wider group of drivers. This may encourage more holders of medically restricted licences to consider driving instruction as a career option, by securing higher participation rates in the labour market amongst medically restricted or disabled persons. Currently there are 9 *Disabled ADIs* and owing to their small number it is not possible to quantify the benefits arising from the proposals.

#### Key assumptions/sensitivities/risks

Discount rate (%) 3.5%

#### Assumptions:

- The amended legislation will come into force in mid-late 2014.
- There will be no significant increase in ADIs with medically restricted licences.
- ADIs with a medically restricted licence will have access to a larger pool of trainees which will encourage economic progress.
- No impact on road safety.

#### Risk:

- A legislative opportunity to amend the legislation is not forthcoming.
- ADIs with medically restricted licences might be unable to take control of a car in an emergency – although this is highly unlikely.

### BUSINESS ASSESSMENT (Option 1)

<b>Direct impact on business (Equivalent Annual) £m:</b>			<b>In scope of OIOO?</b>	<b>Measure qualifies as</b>
<b>Costs:</b> £0m	<b>Benefits:</b> £0m	<b>Net:</b> £0m	Yes	Out

# Summary: Analysis & Evidence

# Policy Option 2

**Description:** The qualification route for *Disabled ADIs* would remain the same, but we would still give the Registrar the power to require any potential or qualified instructor to take an ECA. We would also remove the offence relating to *Disabled ADIs* delivering paid instruction in a manual vehicle where the trainee holds a full driving licence will be removed.

## FULL ECONOMIC ASSESSMENT

Price Base Year 2012	PV Base Year 2012	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: £0m	High: £0m	Best Estimate: £0m

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	£0m	0	£0m
High	£0m	0	£0m
Best Estimate	£0m	0	£0m

### Description and scale of key monetised costs by 'main affected groups'

Additional costs are incurred as a result of implementing this option. The Registrar will very few instructors to take the ECA where he has reasonable grounds to believe they can't take control of a car in an emergency. Minor costs to DSA of £45 annually as well as minor costs to businesses (High of 5 per year is £1,119 p.a or Low of 1 every 10 years at £23 p.a).

Users of the service could travel from anywhere in GB. We have assumed that it could cost between £70 and £385 in order to attend Cardington for an ECA. The use of the "High" and "Low" travel distances used in the evidence base are insufficient to monetise these travel costs.

### Other key non-monetised costs by 'main affected groups'

None

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	£0m	0	£0m
High	£0m	0	£0m
Best Estimate	£0m	0	£0m

### Description and scale of key monetised benefits by 'main affected groups'

There are no monetised benefits of this option

### Other key non-monetised benefits by 'main affected groups'

*Disabled ADIs* will be able to provide paid instruction to a wider group of drivers. Possible positive impact on road safety owing to more ADIs having to undertake an ECA – albeit very rarely.

Removes the hard to justify restriction on *Disabled ADIs* preventing them from giving instruction in a vehicle with manual transmission where the trainee is a full licence holder. As this proposal will only allow *Disabled ADIs* to give instruction in a manual vehicle where the trainee holds a full licence and due to the small number of *Disabled ADIs* it is not possible to quantify the benefits arising from the proposal.

### Key assumptions/sensitivities/risks

Discount rate (%) 3.5%

#### Assumptions:

- The amendments to legislation will be made in mid-late 2014
- ADIs with a medically restricted licence will have access to a larger pool of trainees which will encourage economic progress.
- Possible positive impact on road safety as more instructors may have to undertake an ECA.

#### Risks:

- A legislative opportunity to amend the legislation will not be forthcoming.

## BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: £0m	Benefits: £0m	Net: £0m	Yes	In

# Summary: Analysis & Evidence

# Policy Option 3

**Description:** The qualification route for *Disabled ADIs* would remain the same. We would only remove the offence of *Disabled ADIs* delivering paid instruction in manual cars to full driving licence holders.

## FULL ECONOMIC ASSESSMENT

Price Base Year	PV Base Year	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low: £0m	High: £0m	Best Estimate: £0m

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	£0m	0	£0m
High	£0m	0	£0m
Best Estimate	£0m	0	£0m

### Description and scale of key monetised costs by 'main affected groups'

There are no costs associated with this option.

### Other key non-monetised costs by 'main affected groups'

There are no costs associated with this option.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	£0m	0	£0m
High	£0m	0	£0m
Best Estimate	£0m	0	£0m

### Description and scale of key monetised benefits by 'main affected groups'

There are no monetised benefits with this option.

### Other key non-monetised benefits by 'main affected groups'

*Disabled ADIs* will be able to provide paid instruction to a wider group of drivers. This opens up the market for these ADIs and potentially enables their business to be more successful.

Removes the hard to justify restriction on *Disabled ADIs* preventing them from giving instruction in a vehicle with manual transmission where the trainee is a full licence holder, and provides *Disabled ADIs* with greater access to markets and the opportunity to increase their earning potential. Owing to the small number of *Disabled ADIs* it is not possible to quantify the benefits arising from the proposal.

### Key assumptions/sensitivities/risks

Discount rate (%) 3.5%

#### Assumptions:

- The amendments to legislation will be made in mid-late 2014
- ADIs with a medically restricted licence will have access to a larger pool of trainees which will encourage economic progress.
- No impact on road safety.

#### Risks:

- A legislative opportunity to amend the legislation will not be forthcoming.

## BUSINESS ASSESSMENT (Option 3)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: £0m	Benefits: £0m	Net: £0m	Yes	Zero net cost

## Evidence Base (for summary sheets)

### Background - Approved Driving Instructors

To deliver paid instruction in the driving of a motor car within Great Britain (GB), an instructor must be approved and have their name entered onto a register of Approved Driving Instructors (ADIs). Responsibility for maintenance of the Register falls to the Registrar, an official working within the Driving Standards Agency (DSA), the Government Agency responsible for delivery of driving tests in GB.

Provision of car driving instruction for payment has been a regulated activity for around forty years. Regulations are currently made under powers contained in Part V of the Road Traffic Act 1988 (RTA 1988). In order to gain entry to the Register, instructors must pass 3 qualifying examinations; the ADI 1<sup>1</sup>, ADI 2<sup>2</sup> and ADI 3<sup>3</sup> tests.

Any person giving paid instruction in the driving of a motor car whose name is not on the Register, or who is not licensed, is guilty of an offence. Registration lasts for four years, a trainee licence for six months - although subsequent trainee licences can be applied for, each lasting six months.

Qualified instructors have to undergo periodic practical checks of their continued ability and fitness to give instruction.

### Disabled ADIs

In 1996, legislation was created to allow a disabled person, holding a driving licence restricted on medical grounds to the driving of automatic vehicles only, to become an ADI. Once qualified, such an instructor can apply to be entered onto the register as a *Disabled ADI*. Before applying to become an ADI and undertaking the qualifying examinations, such an applicant must first successfully complete an Emergency Control Assessment (ECA). Disabled persons who hold driving licences allowing them to drive a manual vehicle with adaptations - albeit that they may have quite severe disabilities and are only capable of driving adapted vehicles - are not required to undergo the ECA as part of the ADI qualifying process.

The ECA is intended to establish whether the applicant is able to intervene and successfully take control of the vehicle in an emergency. On successful completion of the ECA the applicant is issued with an Emergency Control Certificate (ECC). This is sent with the application form to the Registrar to satisfy him of their ability to take control of the vehicle in an emergency situation from the front passenger seat - with adaptations fitted to the vehicle where necessary.

It is an offence for a *Disabled ADI* to deliver instruction in a vehicle with manual transmission. Many ADIs deliver post-test driving instruction to drivers who, once they have passed their test, may feel that they need further development to build their confidence, for example driving on motorways or in bad weather. In such circumstances *Disabled ADIs* are only able to deliver instruction in an automatic vehicle. There have been no recorded instances of any *Disabled ADI* committing this offence.

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<sup>1</sup> computer-based test of relevant knowledge plus hazard perception

<sup>2</sup> a practical driving ability test

<sup>3</sup> a practical instructional ability test

## **Numbers of Drivers Involved**

Following the closure of the Department for Transport's Mobility Advice and Vehicle Information Service (MAVIS), responsibility for conducting the ECAs transferred to DSA in April 2007. Since DSA took responsibility 65 assessments have taken place. No failures have been recorded.

Number of ECAs conducted

- 2007 – 20
- 2008 – 19
- 2009 – 7
- 2010 – 5
- 2011 – 8
- 2012 – 6

Over the past six years we have conducted 10.8 ECAs per year on average. There are currently only 9 registered *Disabled ADIs*. This probably reflects the drop out rate of candidates that applies to the ADI qualification process in general.

## **ECA Current Practice**

Prospective ADIs undertaking the ECA are required to travel to Cardington (DSA's training facility in Bedfordshire). This venue is used because it has the facility of private roads and a vehicle fitted with adaptations which provide a safe environment for the assessment. It also has overnight accommodation facilities, should these be needed, but to date none of the applicants have required overnight accommodation.

The current ECA is carried out by a Senior Driving Examiner (SDE) employed by DSA. The SDE will "role play" the trainee and simulate a number of driving faults so that the potential instructor has to intervene by braking or taking control of the steering wheel from the front passenger seat. In total there are 7 exercises, representing typical situations which driving instructors can be expected to face when teaching learners to drive.

Those who pass the assessment and go on to qualify as a *Disabled ADI* will be restricted to giving instruction in vehicles with automatic transmission, even where the trainee has a full driving licence.

## **Problem Under Consideration**

Prior to 1996, individuals holding a medically restricted driving licence, owing to a disability, were not able to become ADIs. To open up access to the ADI industry and avoid discrimination, legislation was introduced to enable these individuals to become *Disabled ADIs*. To ensure the safety of learner drivers and other road users, the ECA was developed so that individuals wanting to become driving instructors, but who hold a medically restricted driving licence because of a disability, are able to satisfy the Registrar of their ability to physically intervene if a trainee loses control of the car during a driving lesson. The ECC, introduced in the same legislation to evidence an ECA pass, specifies all the adaptations to the car that must be present to enable the *Disabled ADI* to be able to instruct and physically take control of the car in an emergency situation. The *Disabled ADI* is only permitted to deliver instruction in a vehicle with the adaptations specified on the ECC, and the accompanying offence was introduced to ensure that they did.

We have no evidence to show that *Disabled ADIs* represent more of a road safety risk than ADIs with a disability driving adapted manual vehicles or other ADIs. It is therefore difficult to justify the current legislation as it targets only those instructors with a medically restricted driving licence, by requiring them to successfully complete an ECA. DSA wants to create a consistent qualification route for all potential driving instructors (PDIs). The additional ECA burden is not proportionate as no other PDIs are required to undertake it.

The ability to intervene in an emergency situation is assessed during the standard ADI qualification route. All PDIs are assessed on this ability during the ADI qualification tests. ADIs can be reassessed during their periodic continued ability to give instruction test (check test). However, as these tests take place on public roads, the assessment is less rigorous than the ECA, which is conducted off road.

It is also hard to justify the offence relating to *Disabled ADIs* delivering instruction in a manual transmission vehicle to full licence holders. A *Disabled ADI* should reasonably expect, when delivering instruction in a manual transmission vehicle to a full licence holder, that they would not be required to take control of the vehicle in an emergency.

Driving instructors already have a duty of care to those that they are teaching to drive. This duty extends to being able to take control of the vehicle in an emergency, if required. Previous case law has established that ADIs have a duty of care to trainees. In the case of *Gibbons v Priestley (1979)* the judgement indicated there was an expectation that trainers should be capable of intervening in circumstances where there was a reasonable expectation that intervention would be necessary. In this particular case, the Judge decided that, as the trainee had demonstrated a certain level of competence to the instructor during a series of driving lessons, it was reasonable to conclude that the need to intervene in an emergency was unlikely.

### **Rationale for Government Intervention**

The requirements for *Disabled ADIs* to undertake the ECA and the offence that is committed if the instructor delivers tuition in a vehicle with manual transmission car to a full licence holder are contained in legislation. We are unable to effect the changes to the current requirements placed on *Disabled ADIs* administratively, through non-legislative measures, and therefore legislative change is necessary.

The need for a disabled person to take an ECA before they are able to qualify to become a *Disabled ADI* is an added burden that is not placed on other potential ADIs. This may be a deterrent to persons with a medically restricted licence from becoming a professional driving instructor. The requirement that all *Disabled ADIs* complete the ECA is no longer appropriate. There is already a duty of care on **all** driving instructors to be able to intervene to take control of the vehicle in an emergency where the instructor is aware that the trainee is an inexperienced driver.

Similarly, it is difficult to justify the restriction that prevents a *Disabled ADI* from providing tuition in a vehicle with manual transmission where the trainee already holds a full licence to drive a motor car. In this situation, the likelihood that the instructor would need to intervene to take control of the vehicle should be extremely remote.



## Policy Objectives

We wish to adopt a more modern approach to risk by recognising that other legislation places obligations upon driving instructors beyond those imposed by the Road Traffic Act 1988, in particular a duty of care. In English tort law, an individual may be owed a duty of care to ensure that they do not suffer any unreasonable harm or loss. Generally a duty of care arises where one individual or group undertakes an activity which could reasonably harm another, physically, mentally or economically. This includes common activities such as driving and the relevant case of *Gibbons v Priestley (1979)* as previously mentioned. This judgement indicated there was an expectation that trainers should be capable of intervening in circumstances where there was a reasonable expectation that intervention would be necessary.

The Registrar already seeks assurance that an applicant for registration as an ADI or *Disabled ADI* could intervene in an emergency via the instructional ability test that forms the final part of the qualifying process. This test duplicates a number of the exercises that are in the ECA, though in a less severe way as the test is performed on road and not at DSA's Training Centre in Cardington. The instructional ability test does not replace the instructors' ongoing legal obligation to ensure they are able to intervene when giving tuition to an inexperienced driver.

ADIs and *Disabled ADIs* must continue to satisfy the Registrar that they are able to intervene in an emergency via the periodic test of continued ability to give instruction test (check test).

We feel it is no longer appropriate to continue to require some PDIs seeking to become a professional instructor to complete an ECA simply because they hold a medically restricted driving licence. Removal of the requirement would mean that a separate registration arrangement for those instructors was no longer necessary. The *Disabled ADI* category would cease to exist, as would the restriction upon them giving instruction to full licence holders only in a vehicle with automatic transmission. The 9 existing *Disabled ADIs* would simply become ADIs.

The ADI 3 and check tests will generally meet the need of the Registrar to satisfy himself that registered instructors are capable of intervening in an emergency. However, we believe the Registrar should be able to require **any** PDI or ADI to pass an ECA (and therefore hold an ECC) where he had reasonable grounds to doubt the ability of that person to intervene in an emergency. We envisage that this would occur very infrequently. We envisage the power will be exercised when:

- Pre-registration - an ECA could be requested at the point the instructor applies to be entered into the Register, if the Registrar is notified about concerns around an applicant's ability to intervene by the examiner who conducted part 3 of the qualifying test. It is possible that the applicant has done enough to pass that test, but that the examiner still has concerns about this particular competency. Where such concerns still exist, the ECA could be used. However, this is likely to occur only very infrequently, as to date no ADIs have ever been removed from the Register for failing to intervene in an emergency, or from lacking this specific skill.
- Self-Selection - an instructor could, hypothetically, come forward themselves if they wanted their own ability tested. However, it is extremely unlikely that any ADI will put themselves forward to take the ECA if it means they risk failing the qualification process.

- During registration period/up to renewal -an ECA could be required if the Registrar receives information that would lead to concerns about a particular ADI, for example, if an instructor and a pupil are involved in an accident where the instructor failed to successfully intervene. If this case went to court, and the instructor was found to be negligent – by breach of their duty of care – the instructor would be legally required to inform the Registrar, who might request that they take an ECA. Even if there was no court involvement, it is quite possible that the Registrar would get to hear about the incident and would probably wish to satisfy himself that the instructor was capable of intervening, which could *possibly* involve the use of an ECA. However – as mentioned earlier – no ADI has ever been removed from the Register for being unable to intervene in an emergency; therefore we consider events such as this to be extremely unlikely.
- Degenerative Illness - another hypothetical scenario in which an ADI may be required to take an ECA is where they have declared a degenerative illness when registering - this may mean they are subject to an ECA every time they re-register. However, we consider it extremely unlikely that a person would opt to continue as an ADI if their illness became too much of an issue.

There are no recorded instances of a DSA examiner referring an instructor to the Registrar because they are considered to be incapable of intervening in an emergency. Therefore, the likelihood of a fully qualified ADI being required to do an ECA is extremely low. Based on the above, we estimate that there will be an average on 1 ECA conducted every 5 years.

In order to make the responsibility of an instructor more transparent we would look to introduce a condition of registration for all ADIs that they could only provide paid instruction in a motor car where they were able to successfully intervene in an emergency if there was a reasonable expectation that intervention would be necessary.

We recognise that the legislative opportunity to implement **Option 1** - to remove the separate qualification arrangements for *Disabled ADIs* and allow the Registrar to require any ADI to undergo an ECA - may not materialise in the near future due to a lack of an appropriate Parliamentary Bill. If DSA is only able to secure space in a Bill for a more limited change, we would seek to:

- **Option 2** – enable the Registrar to require any potential or qualified instructor to take an ECA, and the offence relating to *Disabled ADIs* delivering paid instruction in a manual vehicle, where the trainee holds a full driving licence, will be removed; or
- **Option 3** - at the very least, make it so *Disabled ADIs* would be able to deliver paid instruction in manual cars to full driving licence holders

### **Base case, or “Do nothing”**

The current legislation restricts a *Disabled ADI* to providing tuition only in a motor car with automatic transmission and adapted as specified in the ECC. The separate qualification requirements for *Disabled ADIs* are now difficult to justify. The ‘do nothing’ option is used as a base line against which to compare other options.

### **Duty of Care**

All ADIs should be capable of intervening in the event of an emergency involving an inexperienced learner. Case law established that a duty of care exists, and it is therefore the responsibility of all ADIs to ensure they are capable of taking control of the car in which they are teaching in an emergency situation, if the pupil is not sufficiently competent to deal with the situation.

## National Driver/Rider Training Standard

The ability to take control in an emergency is included in guidance that is issued to prospective ADIs. In addition, in 2011, the DSA launched the National Driver/Rider Training Standard. This standard underpins all of the work the DSA is doing to improve the way people are taught to drive and ride. It was generally welcomed during its introduction by stakeholders from the car driver training and motorcycling rider training industries. It sets out the competences that trainers need in order to assist learner drivers and riders to become and remain safe and responsible on our roads whilst also raising awareness of existing standards.

Unit 6.4 of the standard is about managing the risk to the trainer, learner and third parties. It sets out the duty of care that is already present for instructors and sets the expectation that they are able to take appropriate action in the event of an emergency.

The Standard sets out the skills, knowledge and understanding already expected of **all** instructors.

## ADI Qualification Process

In order to qualify as an ADI a candidate must complete three qualifying examinations:

- a theory test
- a practical driving test
- a test of instructional and fitness ability.

### Theory Test

The theory test is a screen-based test and consists of two parts. It tests a candidate's knowledge of driving theory, in particular the rules of the road and best driving practice.

A candidate's knowledge and understanding of this information is tested in the first part of the test through 100 multiple choice questions. The second part is the hazard perception test which consists of a series of film clips shown from the driver's point of view. The candidate responds to each clip indicating when they see a hazard developing which may result in the driver having to take some action, such as changing speed or direction. This section already tests the candidate's ability to identify a hazard that would require taking action, as they would in an emergency situation.

### Instructional ability test

The instructional ability test is the final part of the ADI qualification process. The objective of the test is to assess the quality of instruction and the candidate's ability to pass on knowledge to pupils. The test is in two parts, and is limited to three attempts. It is generally considered the most difficult of the three qualifying tests to become an ADI

Guidance issued to potential driving instructors includes two areas that are assessed as part of the test and relate to the control of the vehicle and the ability to take control of the vehicle in an emergency:

- **Fault identification** - *You must be able to clearly identify, at appropriate times, the important areas of a pupil's performance in need of development. You must be able to prioritise and decide whether the fault was serious enough to bring to the pupil's attention at the time or was of a very minor nature and not worthy of mention. Recognising faults is the very first step towards correction. You must be able to switch between observation of the pupil and what is happening outside the car. This can be done directly by eye and with the use of strategically placed mirrors. Watching the pupil will help you identify faults.*
- **Instructor's use of controls** - *Any driver-operated control should only be used by an instructor when it is necessary for them to intervene and the pupil should be told immediately why they were used. You must not use the dual controls to control the pupil all or most of the*

time. However, there can be occasions when it is acceptable for an instructor to use the controls as an effective aid during training.

### **Check test – continued test of ability to instruct**

A condition of a person's registration as an ADI is that they are required to take a test of 'continued ability and fitness to give instruction' - commonly known as a check test – when requested to do so by the Registrar. These tests are designed to ensure that an instructor is maintaining the required standard of instruction. The tests are usually conducted by a driving examiner observing a normal lesson provided to one of the instructor's pupils.

The instructor is assessed in the control of the lesson at all times and rated on the following core competencies:

- **Fault identification** - watching the pupil to identify all important weaknesses which need further guidance at appropriate times. This includes prioritising of faults.
- **Fault analysis** - explaining to the pupil what went wrong and why.
- **Remedial action** - teaching the pupil how to avoid committing the same fault, at the earliest opportunity, including possible consolidation with practice.

ADIs can be assessed on their ability to take control of the vehicle in an emergency as part of their check test. They are expected to be able to intervene when required.

### **Monetised costs**

We have monetised the costs of the current ECA arrangements, to both DSA and the ADI industry, in order to calculate the value of the proposed options. However, as these costs are currently business as usual the value of these for the 'do nothing' option remains zero.

#### Current costs to DSA

The table below shows the current monetised costs to DSA of conducting the ECA. These include staff time and administration plus the costs for the training facility overheads and the assessment vehicle.

<b>Table A</b>		<b>Cost (£)</b>
<b>Current costs of the Emergency Control Assessment (2012)</b>		
Senior Driving Examiner (SDE) - 1 hour		<b>£157.55</b>
Booking administration (booked by SDE) - 10 minutes		<b>£26.26</b>
Cardington overheads per instructor hour		<b>£32.34</b>
<b>Toyota Yaris – operating cost</b>		
- Total Yaris maintenance cost since March 2007	£1,224.00	
- Usage for ECA <sup>4</sup> (40% of maintenance)	£489.60	
- Mileage per test (3 miles)	Negligible	
- Annual cost for ECA usage	£81.60	
- £81.60 annual cost / 10.8 ECAs		<b>£7.56</b>
<b>Total cost per test</b>		<b>£223.71</b>
Delivering ECA per year high (15 ECAs)		<b>£3,355.65</b>

<sup>4</sup> 40% of total maintenance cost since March 2007

Delivering ECA per year low (5 ECAs)		£1,118.55
<b>Delivering ECA per year current average (10.8 ECAs)</b>		<b>£2,416.07</b>

### Current costs to business

The costs to business (*Disabled ADIs*) of the current ECA arrangements are the travel, and possibly accommodation, costs of attending DSA's Training Centre, in Cardington, when they undergo an ECA.

We do not have records of the distance that each applicant travels in order to take the Cardington assessment. The applicant could travel from anywhere in GB. Overnight accommodation facilities at Cardington (**£67 per night**) – this facility has never been used but applicants may choose to stay at cheaper venues near Cardington (**£67 - £50**). The estimated costs of travel, time lost and accommodation are shown in Table B.

<u>Table B</u>		<b>Cost (£)</b>
<b>Travel costs</b>		
Average value of working time per hour (car) driver		£33.74 in 2012 prices <sup>5</sup>
HM Revenue and Customs approved mileage rate 2011/12 (cars and vans)		45p per mile
Travel distance High – Edinburgh to Cardington		
- Distance 370 Miles x 0.45		£166.50
- Travel Time 6 hours 30 mins x 33.74		£219.31
Total		£385.81
Travel distance Low - London to Cardington		
- Distance 60 Miles x 0.45		£27.00
- Travel Time 1 hours 15 mins x 33.74		£42.18
Total		£69.18
<b>Travel and accommodation</b>		
<b>High - £385.81 + £67</b>		<b>£452.81</b>
<b>Low - £69.18 + £50</b>		<b>£119.18</b>

### Monetised benefits

There are no monetised benefits of the 'do nothing' option.

### Risks

By continuing with the current arrangements, those instructors who hold a medically restricted driving licence would still have to complete an ECA as part of the ADI qualifying process. This may deter these instructors from entering the ADI profession. It may also be deemed discriminatory toward disabled instructors, as the competencies assessed during the ECA are already assessed during the other ADI qualification tests, albeit in an on-road situation.

<sup>5</sup> Figure taken from DfT Web TAG Unit 3.5.6, October 2012

*Disabled ADIs* would also continue to be prevented from delivering driving instruction to full licence holders in vehicles other than that specified on the ECC. This restriction is unnecessary as these ADIs would not be expected to intervene in an emergency when instructing a person who has a full driving licence. The restriction limits the pool of trainees available to them to instruct.

The ECA would also not be available to the Registrar as a means of check test. There are potentially ADIs whose ability to intervene in an emergency has severely diminished since they passed their qualifying tests, for example owing to medical issues. An ECA could be used to assess this aspect in a more controlled environment.

## **Policy Options Considered**

**Option 1 – We would remove the separate category and qualification arrangements for *Disabled ADIs* – subsequently removing the offence of a *Disabled ADI* delivering paid instruction in a manual vehicle to a full licence holder. The Registrar would be granted the power to require any ADI to undergo an Emergency Control Assessment (ECA).**

Removing the requirement for the holder of a medically restricted licence to take an ECA prior to becoming a professional instructor would create a common qualification process for all ADIs and result in the *Disabled ADI* category ceasing to exist. As a consequence, ADIs with a medically restricted driving licence would no longer be prevented from providing tuition in a vehicle with manual transmission.

ADIs would still have a duty of care to their trainees and must, especially in the case of an inexperienced pupil, be able to successfully intervene in order to take charge of the vehicle.

To reassure learner drivers and other road users:

- the Registrar would continue to be satisfied that applicants for registration as an ADI could intervene in an emergency via the instructional ability test that forms the final part of the qualifying process;
- ADIs would be required to satisfy the Registrar that they were able to intervene in an emergency via the check test;
- DSA would introduce a condition of registration whereby instructors must ensure that they deliver instruction only in a vehicle where they can take control in an emergency where it is reasonably foreseeable that they might have to;
- the Registrar would be able to require any applicant for registration to take the ECA. Similarly, he would be able to require any ADI to take an ECA as a form of check test. In both circumstances, the requirement would only be imposed where the Registrar had reasonable grounds to believe that the applicant for registration or the ADI was not able to take control of the vehicle in an emergency; and
- the number of questions in the theory test item bank for Part 1 of the qualifying test (the theory test) that cover intervening in an emergency would be increased. This would help ensure PDIs fully understand what is expected of them in an emergency, as PDIs have access to the item bank. There would be no change in the total number of questions in the theory test, the time allowed for the test, etc.

Those instructors that are currently registered as *Disabled ADIs* would automatically become ADIs.

During the public consultation, views are being sought from stakeholders and the ADI industry, to determine the level of support for the removal of the separate category and qualification route for *Disabled ADI*. Consultation will also seek opinions about whether the Registrar should be able to require any potential or qualified instructor to complete an ECA where he has reasonable grounds to believe that they are unable to take control of the vehicle in an emergency situation, and whether the hard to justify offence is removed.

### **Emergency Control Assessment**

The ECA will still be available to the Registrar to be used to assess **any** instructor's ability to take control of the vehicle in an emergency, either as a pre-requisite to registration or as a special form of check test. The requirement to take the ECA would only apply in circumstances where the Registrar had concerns about the ability of the instructor to successfully intervene in an emergency. We estimate this will be an average of once every 5 years (at a cost of £223.71 per assessment to the Agency). We would continue to provide the ECA at our training facility in Cardington which means that DSA would incur no set up costs.

We expect the number of people required to complete the ECA to be very low because we have no evidence that instructors are currently unable to take control of the vehicle in an emergency. Instructors already have a duty of care to the individual to whom they provide tuition.

### **Duty of Care**

The removal of the mandatory requirement for holders of medically restricted driving licences to take an ECA would not permit an ADI with a disability to give instruction to inexperienced drivers where they could not intervene in an emergency.

ADIs have an established duty of care to their pupils. They must ensure they have the capability of taking control of the car in an emergency situation where their pupil cannot deal with the situation.

Instructors who hold a medically restricted driving licence may need to have adaptations made to their vehicles to ensure that they have this ability. There are a number of organisations that offer advice and assistance to those with disabilities who want to drive cars and become driving instructors. For example, the Queen Elizabeth foundation help identify what adaptations to a car are needed for a driver with a medically restricted driving licence who wants to become a driving instructor, through various tests including computer simulators that can test limb strength, reaction times, field of vision and so on.

### **National Driver/Rider Training Standard**

DSA will continue to monitor and develop this standard in line with feedback received and ensure that instructors are aware of it and understand what is expected of them.

### **Theory Test**

DSA would continue to monitor and the bank of questions is regularly updated to take account of changes to legislation and best driving practices. As part of the next refresh of questions DSA would include additional questions about situations in which an ADI may be required to take control of the vehicle in an emergency.

### Monetised benefits

The annual monetised costs of delivering the ECA (Table A) would be transferred to savings for DSA when it is removed from the *Disabled ADI* qualifying process. The *Disabled ADI*'s travel and accommodation costs of undertaking the ECA (Table B) would also equate to savings for each individual upon removal of the ECA. These benefits are shown in the Table C below.

<u>Table C</u> <b>Monetised benefits of removing ECA for <i>Disabled ADIs</i></b>	<b>Benefit (£)</b>
<u>To DSA -</u> - Delivering ECA per year - high (15 ECAs) - Delivering ECA per year - low (5 ECAs) - Delivering ECA per year - current average (10.8 ECAs)	 £3,355.65 £1,118.55 £2,416.07
<u>To individual <i>Disabled ADIs</i> -</u> - Travel and accommodation - high - Travel and accommodation - low	 £452.81 £119.18
<u>To <i>Disabled ADI</i> industry –</u> - Disabled ADIs take ECA per year – High (15 <i>Disabled ADIs</i> ) - Disabled ADIs take ECA per year – Low (5 <i>Disabled ADIs</i> )	 £6,792.15 £595.90

### Costs of implementing option 1

There would be minor costs to DSA from implementing option 1. The Registrar would have the power to require any PDI or ADI to undertake an ECA at DSA's Training Centre at Cardington, Bedfordshire. The costs to DSA arise from the delivery of this assessment. We estimate that, on average, one ECA will need to be undertaken every five years at a cost of £44.74 per year to DSA. High and low ranges are shown in Table D.

<u>Table D</u> <b>Implementing option 1 – cost to DSA</b>	<b>Cost (£)</b>
<b>High</b> – 5 ECA per year: Total cost per ECA (Table A) x 5 per year	 £1,118.55 p.a
<b>Average</b> -1 ECA every 5 years: Total cost per ECA (Table A) / 5 years	 £44.74 p.a
<b>Low</b> – 1 ECA every 10 years: Total cost per ECA (Table A) /10 year	 £22.37 p.a

There would also be minor costs to the ADI industry arising from the implementation of option 1. These would comprise of an ADI's travel and possible accommodation costs when required by the Registrar to undertake an ECA. The High and Low travel and accommodation figures are taken from Table B. The estimated average costs of providing the additional ECAs under the different scenarios are shown in the table above. These figures range from £11.91 - £2,264.05.



<u>Table E</u> <b>Implementing option 1 – cost to ADIs</b>	<b>Cost (£)</b>
Total cost of taking 1 ECA (including accomodation) High - £385.81 + £67(accomodation high) Low - £69.18 + £50 (accomodation low)	£452.81 £119.18
Average Cost to bussiness (High – 5 ECAs per year) £452.81 x 5 ECAs per year £119.18 x 5 ECAs per year	£2,264.05 £595.90
Average Cost to bussiness (Low – 1 ECA every 10 years) £452.81 / 10 years £119.18 / 10 years	£45.28 £11.91
Average Cost to bussiness (Central - 1 ECA every 5 years) High - £452.81 / 5 years Low - £119.18 / 5 years	£90.56 £23.84

### **Non-monetised costs and benefits**

*Disabled ADIs* will be free to provide paid instruction to a wider group of drivers. This might encourage more holders of medically restricted licences to consider driving instruction as a career option, by securing higher participation rates in the labour market amongst medically restricted or disabled persons. Due to their small number it is not possible to quantify the benefits arising from the proposals.

Government intervention to reduce regulatory burden on people with medically restricted licences would provide a level playing field that may increase the supply of ADI's and hence promote competition within the industry - which could possibly feed through to a reduction in the cost of learning to drive and improve the quality of service.

### **One-in, One-out**

Option 1 is in scope of One-in, One-out - classified as 'out' - as existing legislation would be recast in order to create a net reduction in burdens for the ADI industry. *Disabled ADIs* would no longer have the burden of needing to complete a mandatory ECA as part of the qualifying process. Although any ADI could be required to undergo an ECA, the average number expected to do so over a five year period would be significantly less than those taken by *Disabled ADIs* under the current regime.

The potential costs and benefits of implementing option one arise from an ADI's travel and accomodation costs when attending Cardington. Table E establishes that the ADI industry would spend around £24 - £2,264 per year on attending Cardington to take the Registrar required ECA. As shown in Table B there will be cost savings of £119 to £453 each or (£119 x 5) £596 to (£453 x 15) £6,792 to the *Disabled ADI* industry, which comes from the savings in travel and accomodation of having to undertake the ECA. This is overall cost savings to business.

**Option 2 - The qualification route for *Disabled ADIs* would remain the same, but we would still give the Registrar the power to require any potential or qualified instructor to take an ECA. We would also remove the offence relating to *Disabled ADIs* delivering paid instruction in a manual vehicle where the trainee holds a full driving licence.**

This option would maintain the *Disabled ADI* category and qualification process, whereby those PDIs who hold a medically restricted driving licence will have to take an ECA prior to qualifying as a *Disabled ADI*. However, the ECA would also be available to the Registrar to assess any instructor's ability to take control of the vehicle in an emergency as a form of check test. All ECAs would continue to be undertaken at the training facility in Cardington, meaning there would be no set up costs incurred by DSA.

The requirement to take the ECA as a check test would only apply in circumstances where the Registrar had concerns about the ability of the instructor to successfully intervene in an emergency.

We expect the number of people required to complete the ECA to be very low because we have no evidence that instructors are currently unable to take control of the vehicle in an emergency. Instructors already have a duty of care to the individual to which they provide tuition.

We would also remove the offence at Section 133D of the Road Traffic Act 1988, which restricts *Disabled ADIs* to delivering paid driving instruction in only automatic cars (with the adaptations specified in the ECC). As a result, the *Disabled ADI* would be able to provide paid instruction in a manual transmission car, but only to a full driving licence holder.

We would still look to add extra questions to the theory test as outlined above in option 1.

### **Monetised costs and benefits**

#### **Costs of implementing option 2**

The figures shown in Table F, below, are the predicted annual monetised costs incurred by DSA for conducting ECAs under this proposal. There would be an annual increase of between £22.37 and £1,118.55 per year owing to the additional ECAs required by the Registrar.

<b>Table F</b>	<b>Cost (£)</b>
<b>Implementing option 1 – cost to DSA</b>	
<b>High</b> – 5 ECA per year: Total cost per ECA (Table A) x 5 per year	£1,118.55 p.a
<b>Average</b> -1 ECA every 5 years: Total cost per ECA (Table A) / 5 years	£44.74 p.a
<b>Low</b> – 1 ECA every 10 years: Total cost per ECA (Table A) /10 year	£22.37 p.a

There would also be a minor net increase in the cost to business of adopting option 2. This relates to the additional travel, time and accommodation costs to ADIs who are required to undertake an ECA at the behest of the Registrar, where he has reasonable grounds they are unable to intervene in an emergency. Table E (under Option 1) shows that these costs could be between **£11.91** and **£2,264.05**.

### Monetised benefits

There would be no monetised benefits of implementing option 2 - there are net cost increases to both DSA and the ADI industry.

### Non-monetised costs and benefits

There may be a positive impact on road safety owing to the Registrar being able to require more ADIs to undertake an ECA – albeit very rarely. *Disabled ADIs* will have greater access to markets and the opportunity to increase their earning potential owing to them being able to deliver training in manual transmission cars to full licence holders. This might encourage more holders of medically restricted licences to consider driving instruction as a career option. It is not possible to quantify the benefits arising from the proposal.

### One-in, One-out

Option 2 is in of scope of One-in, One-out, and classified as ‘in’. Although there is a non-monetised benefit to *Disabled ADIs*, whereby the offence (delivering paid instruction in a manual vehicle to a full licence holder) would be removed by repealing legislation, there would be a wider monetised burden placed on the entire ADI industry (albeit one that will affect only one person every five years). The net increase in the cost to business arises from ADIs travel and accomodation spend when attending Cardington to take the Registrar required ECA.

### **Option 3 – The qualification route for Disabled ADIs would remain the same. We would only remove the offence of Disabled ADIs delivering paid instruction in manual cars to full driving licence holders.**

The effect of removing the offence at Section 133D of the Road Traffic Act 1988 would permit *Disabled ADIs* to deliver paid driving instruction in an “unauthorised vehicle” (i.e. a car with manual transmission or without adaptations) **but only to holders of full driving licences**. In such circumstances it is highly unlikely that the *Disabled ADI* would ever have to take control of the vehicle.

This option would retain the existing qualification arrangements and registration requirements for *Disabled ADIs*. The only change would be removal of the restriction outlined in the preceding paragraph. We hope that by removing the offence, *Disabled ADIs* will benefit from the opportunity to provide training to a larger group of drivers.

We would still look to add extra questions to the theory test as outlined above in option 1.

### Monetised costs and benefits

There are no monetised costs of implementing this option, and no costs to business.

### Non-monetised costs and benefits

This proposal will remove the hard to justify restriction on *Disabled ADIs*, who in turn will have greater access to markets and opportunities to increase their earning potential through being able to deliver training in manual transmission cars to full licence holders. This might encourage more holders of medically restricted licences to consider driving instruction as a career option. It is not possible to quantify the benefits arising from the proposals.

## **One-in, One-out**

Option 3 is in scope – classified as ‘zero net cost’. Existing legislation would be repealed that places a restriction on a minority of businesses that does not apply to the majority. We are unable to quantify any monetised benefits to business, although with the restriction lifted *Disabled ADIs* have access to a larger share of the driving instruction market. There would be no monetised costs to businesses of implementing option 3.

## **Specific impacts tests – all options**

### **Equalities**

The removal of the separate classification of *Disabled ADI* will remove the discrimination within the driver training industry and may remove a barrier that is restricting disabled people from entering into the ADI profession.

Disabled people remain less likely to be in employment. In 2012, 46.3 per cent of disabled people are in employment compared to 76.2 per cent of non-disabled people<sup>6</sup>. Removing the ECA could potentially enable more disabled people become self-employed ADIs, as the additional, unnecessary regulation could be a barrier to entry or a barrier to this specific group accessing self-employment opportunities. We do not envisage that this will have an effect on age, race or gender.

### **Devolved Countries**

The new arrangements will apply to Great Britain. Northern Ireland has its own registration system for driving instructors.

### **Competition Assessment**

We believe that by removing the barrier restricting *Disabled ADIs* from delivering paid instruction to full licence holders in manual vehicles, they will have greater freedom to provide instruction. Despite this we expect there to be minimal impact on competition, as there are too few *Disabled ADIs* to have any *significant* impact on competition.

### **Small Firms Impact Test**

These proposals will not have a negative effect on small business. There may be a positive effect for ADIs who hold a medically restricted licence, as they will be able to deliver instruction to a wider group of trainees, which may encourage economic progress.

### **Wider Environmental Issues**

We have not identified any significant effect upon the environment from this proposal, nor, on carbon emissions.

### **Health and Well-being**

We have not identified any direct impact upon health as a result of this IA.

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<sup>6</sup> Taken from the Office for Disability Issues website; <http://odi.dwp.gov.uk/disability-statistics-and-research/disability-facts-and-figures.php#imp>

### Human Rights

We have not identified any human rights issues arising from within this IA.

### Rural Proofing

We have not identified any rural proofing issues arising from within this IA.

### Sustainable Development

We have not identified any impact on sustainable development arising from within this IA.