

EXPLANATORY MEMORANDUM TO
THE MOTOR VEHICLES (TESTS) (AMENDMENT) REGULATIONS 2006
2006 No 1998

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

2. Description

These Regulations change the re-examination procedures prescribed by regulation 20 of the Motor Vehicles (Tests) Regulations 1981. The Regulations require that certain motor vehicles undergo a mandatory annual examination to ensure that they are roadworthy. Such examinations are commonly known as “MOT tests”.

3. Matters of Special Interest to the Joint Committee on Statutory Instruments

3.1 Not applicable.

4. Legislative Background

4.1 These Regulations are made under sections 45 and 46 of the Road Traffic Act 1988 and by virtue of the provisions of the Department for Transport (Fees) Order 1988.

4.2 Under the Road Traffic Act 1988 it is an offence for certain motor vehicles to be used on the road unless they have been issued with a MOT test certificate. The test certificate is only issued if the vehicle has been examined and found to meet certain requirements relating to its construction and condition, and to its accessories and equipment, and the condition of the vehicle is not such that its use on the road poses a danger. Where vehicles fail the initial examination, they are required to undergo and pass a re-examination before a test certificate can be obtained.

5. Extent

These Regulations extend only to Great Britain. They do not apply in Northern Ireland.

6. European Convention on Human Rights

As these Regulations are subject to negative resolution procedure and do not amend primary legislation, no statement is required.

7. Policy Background

7.1 The Regulations no longer require all vehicles that fail the initial MOT test to undergo a full retest. Instead, the Regulations introduce a partial re-test (so that only the defective components are re-examined) for a partial fee. The changes will lessen the burden on MOT garages of having to carry out a full retest on all vehicles that fail the initial MOT test and motorists who regularly maintain their vehicles should be able to benefit from paying the partial retest fee, rather than the full fee, in most cases.

7.2 53 organisations and individuals were consulted about the proposals and 10 responses were received. Officials also discussed the proposals during meetings with the associations representing MOT garages. The majority of consultees agreed that the retest procedures should be amended but most thought that the new procedures, as originally drafted, were too complex - the initial proposal was for a three-tiered system of fee for retests. It was also felt that the initial idea of requiring the original tester at the VTS to carry out any retest would be unreasonable and the proposal to drop free retest items also lacked support from consultees. Similar views were expressed during the liaison meetings with representatives of the MOT trade associations.

7.3 The retest procedures have therefore been simplified to address the concerns raised during the public consultation.

8. Impact

8.1 A regulatory impact assessment on the effect that these Regulations will have on the costs of business has been prepared and a copy is attached.

8.2 The impact on the public sector will be in relation to businesses, charities and voluntary organisations that run vehicles of MOT testable age (in most cases vehicles over 3 years of age).

9. Contact

9.1 The official within the Department for Transport who can be contacted with any queries on the Regulations is Hayley Bowen, Driver Vehicle & Operator Group Policy Division, Department for Transport, Southside, 105 Victoria Street, London, SW1E 6DT; telephone 020 7944 6575; e-mail hayley.bowen@dft.gsi.gov.uk

REGULATORY IMPACT ASSESSMENT

1. TITLE OF PROPOSED MEASURE

The Motor Vehicles (Tests) (Amendment) Regulations 2006

2. ISSUE AND OBJECTIVE

Issue

2.1 This Regulatory Impact Assessment deals with the restructuring of the procedures and fees relating to MOT retests.

Objective

2.2 The main objective is to ensure that the retest procedures and fees are set at a level which is fair for the motorist and the MOT testing garage, whilst maintaining road safety.

3. BREAKDOWN OF CHANGES

3.1 Motorists are under a statutory obligation to submit their vehicles for periodic roadworthiness tests (MOT). The purpose of the test is to ensure that cars, light goods vehicles and motorcycles are checked at least once a year to ensure that they are in a roadworthy condition. In other words, that they comply with key performance requirements in the Road Vehicles (Construction and Use) Regulations 1986 and the Road Vehicles Lighting Regulations 1989.

3.2 If a vehicle fails the initial MOT test, it must be repaired and pass a retest if it is to be legally used on a road. Currently, all vehicles which fail an initial MOT must have another full MOT test for which a full fee may be charged. A partial retest of just the defective components will only be undertaken in cases where the vehicle remains with the garage that failed it or if the vehicle failed the initial test on certain, prescribed, minor items and is taken back to the same MOT garage to be retested within 24 hours of the initial test. In these cases, the partial retest would be undertaken free of charge.

3.3 The new procedures will allow garages to carry out a retest on the vehicle components that failed the initial test and to charge a partial fee for this service. The retest procedures are as follows:

- i) **No fee will be charged** if the vehicle stays at the test station where it failed the MOT, so that it can be repaired and a re-examination is carried out before the end of the 10th working day after the day of the initial test. If the retest is carried out after 10 working days, the fee to be charged will be as point (v) below.

- ii) **No fee will be charged** for the re-examination of a vehicle brought back to the same testing station by the end of the next working day following the day of the failed initial test, on one or more of the following items only:

Boot lid, bonnet, brake pedal anti-slip, doors, dropsides, fuel filler cap, horn, loading door, mirrors, all lamps, rear reflectors, registration plates, seat belts (but not anchorages), seats, sharp edges or projections, steering wheel, tailboard, tailgate, vehicle identification number (VIN), windscreen, windscreen wipers/washers, wheels* & tyres* -

**not applicable to class 1(motorcycles up to 200cc) & 2 (all other motorcycles)*

- iii) If the vehicle does not qualify for a retest, as listed at point 2 above, and is brought back to the same testing station by the end of the 10th working day after the day of initial test for a retest - then a partial re-examination is required.

A maximum of 1/2 the full fee may be charged.

- iv) A Class IVA or VA that passes on seat belt installation, but fails on other areas of the test, maybe retested at the same test station as a Class IV or V vehicle.

The extent of the test and fees are as for Class IV or V.

- v) In any other case a full re-examination is required.

A full fee may be charged for the retest.

Only one partial re-examination is permissible per full examination

3.4 The retest proposals were fully consulted upon in March 2005 but have since been simplified in line with comments made by consultees.

4. RISK ASSESSMENT

4.1 There is a small risk that by carrying out only a partial retest, MOT garages may not notice a component which had deteriorated to an unacceptable condition since the initial MOT test. This could result in a garage issuing an MOT certificate when the vehicle was not fully roadworthy. However, a similar situation could occur under the current arrangements. A garage could pass a vehicle at the MOT, and one of its components could deteriorate below an acceptable standard the day after the test. Ultimately, it is the responsibility of the motorist to ensure that their vehicle remains roadworthy at all times through regular maintenance and servicing. We therefore see the risk as minimal.

5. OTHER OPTIONS

5.1 Three possible options have been identified:

- Option 1 Maintain the current arrangements;
- Option 2 Maintain the current arrangements but introduce a charge for the current free retest items;
- Option 3 Change the retest procedures as proposed.

5.2 Option 1 was discounted because, following the introduction of the computerisation of the administrative parts of the test, anecdotal evidence suggested that many garages would start charging the full fee for an MOT retest when they would normally have undertaken the retest free of charge. This was thought to be unfair to motorists.

5.3 Option 2 was also thought to be unfair to motorists who would have to start paying a fee for the retest of a minor failure item when previously they could have such items retested free of charge. Garages would also be required to carry out another full test on a vehicle that they may well have tested fully just a few hours before and found to be fully roadworthy in all but one component.

5.4 We believe that option 3 is the best option in the long-term as vehicles will only need to be retested on the defective components identified during the initial MOT test. This should be cheaper for motorists and will save garages time in retesting vehicles which they have already tested a short time before.

6. IDENTIFY THE BENEFITS

ECONOMIC

6.1 The new retest structure will enable retests to be conducted quicker, saving garages time on testing a vehicle that had already been tested a short time before and found to be largely in a roadworthy condition.

ENVIRONMENTAL

6.2 There will be no additional environmental impact as a result of these proposals. The proposals could even be beneficial to the environment as vehicles which do not fail the MOT test as a result of emissions will no longer have to have a further emissions test as part of the retest.

SOCIAL

6.3 Partial retests with partial fees would be fairer to motorists as, in most cases, costs to the motorist should decrease.

7. ISSUES OF EQUITY OR FAIRNESS

7.1 The proposed measure would impact proportionally across the whole industry and the motoring public.

7.2 Those most likely to be affected by the proposals are those that do not maintain their vehicles adequately. These vehicles are more likely to fail the MOT test resulting in them having to be retested.

7.3 Those that maintain their vehicles in a roadworthy condition are less likely to be affected by the proposals as more than 70% of vehicles normally pass the first MOT test.

8. COMPLIANCE COSTS FOR BUSINESS, CHARITIES AND VOLUNTARY ORGANISATIONS

Business Sectors Affected

8.1 This regulation will affect charities and voluntary organisations but no more so than anyone else who runs a vehicle.

8.2 Users of vehicles falling within the following MOT test classes will be affected by the proposed changes:

- classes I and II – motor bicycles and motor bicycle combinations;
- class III – three-wheeled vehicles;
- class IV – cars, light vans and small minibuses;
- class IVA – minibuses with additional seat belts fitted;
- class V – private buses and larger minibuses;
- class VA – private buses and larger minibuses with additional seat belts fitted;
- class VII – light goods vehicles

8.3 Approximately 19,500 testing stations are authorised to conduct MOT testing, employing some 55,000 testers.

8.4 The main business sectors affected will be those that:

- run goods vehicles over 3000kg and up to 3500kg design gross weight (that is, light goods vehicles);
- have company vehicles of MOT testable age;
- hire out company vehicles of MOT testable age;
- hire out class IVA and class VA vehicles (effectively class IV and V vehicles with additional seat belts fitted);

Compliance costs for a typical business

8.5 There should be no additional costs for businesses. Vehicles which fail the MOT test may now have to pay a partial retest fee whereas previously, they would either have the retest conducted free of charge or would have to pay a full retest fee (depending on how rigorously the MOT garage that retested their vehicles adhered to the retest rules – some already carry out a partial retest free of charge).

8.6 The requirement to meet prescribed roadworthiness standards has been in force since 1961 and should feature in businesses' projected costs.

9. TOTAL COMPLIANCE COSTS

9.1 There should be no additional compliance costs for businesses. Theoretically, we would estimate that a fairly large proportion of motorists who were required to pay the full fee for a retest will now only have to pay half the full fee for a partial retest. However, it should be remembered that many garages have been offering free retests for some time so the potential financial savings for motorists may well be negated.

10. CONSULTATION WITH SMALL BUSINESS: "THE LITMUS TEST"

10.1 The Small Business Service (SBS) has been informed of the proposals set out in this document and a copy of the consultation was sent to them.

11. COMPETITION ASSESSMENT

11.1 The proposals will still allow competition within the MOT trade as the fees in the proposal would still be a statutory maximum and garages would be able to charge whatever they wished up to that statutory maximum.

12. IDENTIFY ANY OTHER COSTS

12.1 No other costs have been identified.

13. CONSULTATION

13.1 The Department has carried out a consultation exercise with interested parties, including motoring organisations, representatives of the MOT trade and consumer groups on the effect of the proposals to restructure the retest procedures and introduce partial retests for a partial fee. Consultees - including representative small businesses and the Federation of Small Businesses - were asked specifically for their comments on the regulatory impact assessment as part of the consultation process. The majority of respondents agreed with the proposal to change the retest procedures as proposed.

14. SUMMARY AND RECOMMENDATION

14.1 The proposal has some potentially significant benefits as MOT garages should be able to carry out MOT retests more quickly, thereby reducing their costs and motorists will benefit from only having to pay up to half the full fee

for a retest. It is therefore recommended that the proposal is adopted, and that legislative backing is given to the proposed changes.

15. EFFECTS ON INTERNATIONAL COMPETITIVENESS

15.1 The proposal will have no effect on international competitiveness.

16. ARRANGEMENTS FOR MONITORING AND REVIEW

16.1 Monitoring and review of the costs are being undertaken through feedback during the consultation process.

17. CONTACT POINT

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Date: 20 July 2006

DECLARATION

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

Signed by the responsible Minister: S.J. Ladyman
Date: 20th July 2006