

EXPLANATORY MEMORANDUM TO

THE MOTOR VEHICLE (COMPETITIONS AND TRIALS) (AMENDMENT) (ENGLAND) REGULATIONS 2010

2010 No. 1005

AND

THE MOTOR VEHICLES (OFF ROAD EVENTS) (AMENDMENT) (ENGLAND) REGULATIONS 2010

2010 No. 1003

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

2. Purpose of the instrument

2.1 This Memorandum covers two related instruments; the Motor Vehicle (Competitions and Trials) (Amendment) (England) Regulations 2010 (“Instrument A”) and the Motor Vehicles (Off Road Events) (Amendment) (England) Regulations 2010 (“Instrument B”).

2.2 Instrument A further amends the Regulations that govern the authorisation of on-road motor events (the Motor Vehicle (Competitions and Trials) Regulations 1969 (“the 1969 Regulations”). Instrument B amends the Regulations that govern the authorisation of off-road motor events (the Motor Vehicles (Off Road Events) Regulations 1995 (“the 1995 Regulations”). The amendments apply in relation to England only. The key changes are to the bodies that are permitted to authorise these events and to the fees they may charge for processing applications for authorisation.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Context

4.1 It is an offence, under section 13 of the Road Traffic Act 1988 (“the 1988 Act”), for a person to promote or take part in a competition or trial (other than a race or trial of speed) involving the use of motor vehicles on a highway (i.e. an “on-road event”). Section 13 further provides, however, that an offence is not committed where the event is authorised (and conducted in accordance with any conditions imposed) by or under Regulations made by the Secretary of State under that section.

4.2 Under the 1988 Act it is also an offence to: cause the death of another person by driving a mechanically propelled vehicle dangerously on a road or other public place (s.1); to drive a

mechanically propelled vehicle dangerously on a road or other public place (s.2); or to drive a motor vehicle on a road without due care and attention, or without reasonable consideration for other persons using the road (s.3). Section 13A of the 1988 Act provides that a person is not guilty of an offence under any of those sections when driving a vehicle in a public place other than a road (i.e. “off-road”) if he can show that he was driving in accordance with an authorisation for an off-road event given under Regulations made by the Secretary of State under that section.

4.3 The 1969 Regulations and the 1995 Regulations were made for the purposes described in paragraphs 4.1 and 4.2 respectively. These instruments primarily (a) appoint a new authorising body for on-road events in place of the current authorising body and replace 3 of the current authorising bodies for off-road events with 3 new bodies and (b) amend the fees provisions in both sets of Regulations.

4.4 The functions of the Secretary of State under sections 13 and 13A are devolved functions in relation to Scotland and Wales. The 1969 Regulations did apply throughout Great Britain, but with effect from 4 November 1976 ceased to apply to Scottish events and the Scottish part of any cross-border event. The 1995 Regulations apply throughout Great Britain.

5. Territorial Extent and Application

5.1 These instruments apply to England.

6. European Convention on Human Rights

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

7. Policy background

- What is being done and why

7.1 The key changes to the existing Regulations are as follows.

(a) The Royal Automobile Club Motor Sports Association Limited (“the MSA”) is appointed to authorise on-road and off-road events (in place of the Royal Automobile Club). The Association of Land Rover Clubs Limited and the Auto-Cycle Union Limited are appointed to authorise off road events (in place of the Association of Rover Clubs Limited and the Auto-Cycle Union respectively).

The Royal Automobile Club wishes to stand down as an authorising body for on-road and off-road motor events. The MSA wishes to take over the role. The MSA is now independent from the Royal Automobile Club. It has handled the administration process of authorising events for the Royal Automobile Club since becoming a separate organisation and is considered to be the most suitable body to undertake the authorisation of on-road events. Two other off-road authorising bodies wish to transfer the authorising function to related bodies. The Association of Rover Clubs Ltd has now set up a new body called the Association of Land Rover Clubs Ltd and wishes to transfer all its functions, including the authorising of off-road events to the new body. The Auto Cycle Union wishes to transfer its authorising function to its commercial arm, the Auto Cycle Union Ltd.

(b) Instrument A allows the MSA to set its own application fees for the authorisation of on-road events. This brings on-road events into line with off-road events. Previously, the fee that could be charged for authorising an on-road event was prescribed in the 1969 Regulations (and was a charge per competing vehicle, the rate of which varied according to the distance of the route of the event concerned).

This change has been made because there is a pressing need to allow the fees, which were last set in 1993, charged for the authorisation of on-road events to be raised to reflect the current authorisation costs.

Instruments A and B introduce a requirement on authorising bodies to publish their fees and to publish details of any increase at least 3 months before it takes effect. We made the decision to add these provisions following comments that were received in response to the consultations referred to below.

(c) Other minor amendments have been made to the list of on-road “specified events” in the 1969 Regulations. Whether or not an event is “specified” determines when an application for authorisation may be submitted (see regulation 7(2) of the 1969 Regulations) and which of the standard conditions set out in Schedule 3 may be modified by the authorising body. One event that is no longer run in England the Pioneer Run, has been removed from the list of specified events and the International Six Days’ Trial has been re-named the International Six Days’ Enduro.

(d) There has been little interest in these proposals from the public; only those with a vested interest in motor events responded to the consultations referred to below.

(e) The changes are not legally or politically important.

- **Consolidation**

7.2 The Department has no current plans to consolidate the relevant legislation but will review this if and when further changes are required.

8. Consultation outcome

8.1 A 12 week public consultation on proposed changes to the 1969 and 1995 Regulations was issued in March, 2006. Views were sought on proposals relating to: the identity and manner of appointment of the authorising bodies; fee levels for on-road events; the list of specified events and how they should be specified; and timescales for applications. The consultation paper, a copy of which can be accessed at <http://webarchive.nationalarchives.gov.uk/+/http://www.dft.gov.uk/consultations/archive/2006/popmotreg/>, was sent to the motor event industry, local transport and police authorities, road and countryside user associations and other Government Departments. 23 responses were received. All responses were carefully considered. Overall most respondents agreed with the proposals, although some were agreed with qualification or with further suggestions. A summary of the responses can be viewed at: <http://www.ddft.gov.uk/consultations/archive/2006popmotreg/>.

8.2 Due to vires issues that were not been foreseen at the consultation stage it subsequently became necessary to change some of the original proposals during the drafting stage. In order to explain these changes we wrote to key stakeholders to seek their views in February 2010, with copies of the proposed Regulations and this resulted in some further minor revisions. A copy of that consultation letter and a summary of the responses can be viewed at <http://www.dft.gov.uk/consultations/archive/2006popmotreg/>

9. Guidance

9.1 A new Guidance Note for those who authorise and organise on-road and off-road motor vehicle-events, covering all aspects of the process, will be prepared by the department and will then be published on the Department’s website, but this is not considered essential for the purposes of these changes. A previous guidance note was issued in 1992, but it has been out of

date for some time. Although copies can be provided on request by the Department it is not currently made generally available. The authorising bodies currently provide information and guidance to event organisers.

10. Impact

10.1 The impact on business, charities or voluntary bodies is that, where they are event organisers they will be liable to pay an increased fee for authorisation for an on-road event. Most event organisers are car or motorcycle clubs, which are small businesses or voluntary bodies. The impact on event organisers will be an increase in the application fees they pay for on-road event authorisations, which have not been raised since 1993.

10.2 There is no impact on the public sector.

10.3 An Impact Assessment is attached to this memorandum.

11. Regulating small business

11.1 These instruments do not apply to small business.

12. Monitoring & review

12.1 There are no specific plans to monitor and review the application of the new fees provisions. However, should it become apparent to the Department that the authorising bodies are setting fees at an unacceptably high level; the Department will then take steps to review the position.

13. Contact

Mandy Jutsum at the Department for Transport (Tel: 020 7944 2025 or email: mandy.jutsum@ddft.gsi.gov.uk) can answer any queries regarding the instruments.

Summary: Intervention & Options

Department /Agency: DfT	Title: Impact Assessment of Changes to the On-Road and Off-Road Motor Event Regulations	
Stage: Final	Version: One	Date: 23 rd March 2010
Related Publications:		

Available to view or download at:

<http://www.>

Contact for enquiries: Mandy Jutsum

Telephone: 020 7944 2025

What is the problem under consideration? Why is government intervention necessary?

We need to amend the Regulations governing on-road and off-road motor events: the Motor Vehicle (Competitions and Trials) Regulations 1969 (as amended) and the Motor Vehicles (Off Road Events) Regulations 1995. The changes relate to England only.

What are the policy objectives and the intended effects?

To replace the Royal Automobile Club as the sole authorising body for on-road events and as one of the authorising bodies for off-road events with the Royal Automobile Club Motor Sports Association Limited. And also change two other off-road authorising bodies: the Association of Rover Clubs Ltd to be replaced by the Association of Land Rover Clubs Ltd; and the Auto Cycle Union to be replaced by the Auto-Cycle Union Ltd.; to amend the on-road Regulations to allow the authorising body for on-road motor events to set its own application fees; and to amend the list of specified on-road events.

What policy options have been considered? Please justify any preferred option.

1. Do nothing.
2. Make changes to the legislation to appoint new authorising bodies; allow the authorising body for on-road motor events to set its own application fees, which is in line with the current position for off-road events; to amend the list of specified on-road events.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

We expect Authorising Bodies to keep this under continuous review and let us know if there are any problems.

Ministerial Sign-off For SELECT STAGE Impact Assessments:

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:

Paul Clark Date: 24th March 2010

Summary: Analysis & Evidence

Policy Option:	Description:
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COSTS	ANNUAL COSTS	Description and scale of key monetised costs by 'main affected groups'						
	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 15%;">One-off (Transition)</td> <td style="width: 5%; text-align: center;">Yrs</td> </tr> <tr> <td>£ Nil</td> <td></td> </tr> </table>				One-off (Transition)	Yrs	£ Nil	
	One-off (Transition)	Yrs						
	£ Nil							
	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 15%;">Average Annual Cost (excluding one-off)</td> </tr> <tr> <td>£ .023m</td> </tr> </table>		Average Annual Cost (excluding one-off)	£ .023m		Total Cost (PV)	£ 0.23m	
Average Annual Cost (excluding one-off)								
£ .023m								
Other key non-monetised costs by 'main affected groups'								
Ability to continue to hold events,								

BENEFITS	ANNUAL BENEFITS	Description and scale of key monetised benefits by 'main affected groups'						
	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 15%;">One-off</td> <td style="width: 5%; text-align: center;">Yrs</td> </tr> <tr> <td>£</td> <td></td> </tr> </table>				One-off	Yrs	£	
	One-off	Yrs						
	£							
	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 15%;">Average Annual Benefit (excluding one-off)</td> </tr> <tr> <td>£ .023m</td> </tr> </table>		Average Annual Benefit (excluding one-off)	£ .023m		Total Benefit (PV)	£ 0.23m	
Average Annual Benefit (excluding one-off)								
£ .023m								
Other key non-monetised benefits by 'main affected groups'								

Key Assumptions/Sensitivities/Risks MSA are making a loss of circa. £25k per year when authorising events, so will have to increase total charges to cover their costs.

Price Base Year 2009	Time Period Years 10	Net Benefit Range (NPV) £ 0	NET BENEFIT (NPV Best estimate) £ 0
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What is the geographic coverage of the policy/option?			England		
On what date will the policy be implemented?			Late April 2010		
Which organisation(s) will enforce the policy?			N/A		
What is the total annual cost of enforcement for these organisations?			£ N/A		
Does enforcement comply with Hampton principles?			Yes		
Will implementation go beyond minimum EU requirements?			N/A		
What is the value of the proposed offsetting measure per year?			£ N/A		
What is the value of changes in greenhouse gas emissions?			£ N/A		
Will the proposal have a significant impact on competition?			No		
Annual cost (£-£) per organisation (excluding one-off)		Micro	Small	Medium	Large
Are any of these organisations exempt?		No	No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices)			(Increase - Decrease)		
Increase of	£ N/A	Decrease of	£ N/A	Net Impact	£ N/A

Key: **Annual costs and benefits: Constant Prices** **(Net) Present Value**

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

1. Title of Proposal

Proposed changes to the On-Road and Off-Road Motor Events Regulations.

2. Purpose and intended effect

Objective

2.1 To amend in England the on-road and off-road motor event Regulations to: replace one of the existing authorising bodies for on-road and off-road events, the Royal Automobile Club (the Club) with the Royal Automobile Club Motor Sports Association Ltd (MSA); to appoint two other off-road authorising bodies in place of current related bodies: the Association of Rover Clubs Ltd to the Association of Land Rover Clubs Ltd and the Auto Cycle Union to the Auto Cycle Union Ltd; to allow the authorising body for on-road motor events to set its own application fees, in line with the current position for off-road events; and amend the list of specified on-road events. These amendments will be in relation to England only.

2.2 The Welsh Assembly Government have indicated that they intend, subject to the provisions of the Government of Wales Act 1998, to propose similar amendments in relation to on-road and off-road events in Wales. The Scottish Government have indicated that they intend to propose similar amendments in relation to Scotland in relation to off-road events (they already have separate Regulations in relation to on-road events that are run wholly/partly in Scotland).

Background

On Road Events

2.3 Events such as navigational rallies and treasure hunts that take place on public roads are governed in England and Wales by the Motor Vehicles (Competitions and Trials) Regulations 1969 (SI 1969/414) as subsequently amended. Races and speed trials are not permitted on public roads, for reasons of public safety. And any person who takes part in a competition or trial (other than a race or speed trial) on a public road is guilty of an offence unless it is authorised under and conducted in accordance with, the regulations. Certain events including those with 12 or fewer vehicles are authorised automatically under the regulations. Events that are not automatically authorised are currently required to be authorised by the RAC (“the Club”). The Regulations set the conditions that apply to events authorised by the Club and the fees the Club may charge to authorise events. The fees were last changed by the 1993 amending Regulations. The Regulations also specify certain events (“specified events”) that can be authorised more than six months in advance and to which less stringent conditions may be applied. Separate, similar Regulations exist for events in Scotland. In practice, the MSA has handled the administration process of authorising events for the Royal Automobile Club, since becoming a separate organisation and is considered to be the most suitable body to undertake the authorisation of on-road events.

Off Road Events

2.4 The Road Traffic Act 1991 extended offences of dangerous and careless driving to public places (parks, common land etc.), as well as roads. These offences do not apply to drivers participating in off-road events in public places that have been authorised by one of the authorising bodies appointed in the off-road Regulations. There are eleven such authorising bodies, including the Royal Automobile Club. The organisers of off-road events should obtain authorisation from the appropriate body. These Regulations allow authorising bodies to set their own fees to cover the cost of administering the authorisations and they apply throughout Great Britain.

Rationale for Government Intervention

2.5 The Royal Automobile Club (the Club) wishes to stand down as an authorising body for on and off road motor sports, with the Royal Automobile Club Motor Sports Association Limited (MSA) taking its place. Also, two other off-road authorising bodies also wish to transfer the authorising function to related bodies. The Association of Rover Clubs Ltd has now set up a new body called the Association of Land Rover Clubs Ltd and wishes to transfer all its functions, including the authorisation of off-road events to the new body. The Auto Cycle Union wish to transfer its authorising function to its commercial arm, the Auto Cycle Union Ltd. The Regulations will need to be amended to reflect these changes.

2.6 The fees charged to authorise on-road events also need to be raised to reflect the current administration costs. They were last set in 1993.

2.7 We considered altering the requirements relating to the appointment of authorising bodies, the specified events and the setting of fees to provide greater flexibility. Currently, any changes to the appointment of authorising bodies, what fees they may charge for on-road events and which are specified events, require the Regulations to be amended.

2.8 We understand the MSA undertakes a lot of the administration work relating to authorisation process, although the Club has retained formal responsibility for granting the authorisations. The MSA is making a loss on authorising events of around £25,000 per year, using 2005 as an example year. 222 on-road events were authorised by the Club in 2005. MSA estimated that there were also around 500 on-road events that involved fewer than 12 vehicles, which would not require authorisation. The Club also authorised around 4000 off-road events in 2005, also administered by MSA. Further off-road events would have been authorised by the other off-road authorising bodies.

Consultation

2.9 A 12 week public consultation on proposed changes to the 1969 and 1995 Regulations was issued in March 2006. Views were sought on proposals relating to: the identity and manner of appointment of the authorising bodies; fee levels for on-road events; the list of specified events and how they should be specified; and timescales for applications.

2.10 The consultation paper was sent to 156 companies/organisations including the motor event industry, local, transport and police authorities, road and countryside user associations and other Government Departments. 23 responses were received. Overall, most respondents agreed with the six proposals, although some were agreed with qualification or with further suggestions. All responses were carefully considered and adjustments were made to the proposals, where appropriate.

2.11 After taking account of consultation responses, the Department reconsidered its policy decisions in relation to the following matters:

- It was originally proposed that, instead of specifying the names of the authorising bodies in the Regulations, the Regulations could instead enable the Secretary of State to appoint authorising bodies for on-road motor events, as and when necessary, subject to specified conditions. After further consideration of the enabling powers in the Road Traffic Act, we concluded that those powers were insufficiently clear to allow this. We therefore decided not to proceed with this proposal and authorising bodies will continue to be specified in the Regulations.
- It was proposed to enable the authorising body to decide which on-road events can be treated as specified events. In response to the consultation, we decided not to proceed with this proposal. Specified events will therefore continue to be specified in the Regulations and there will be no changes to the rule about when applications for authorisations may be submitted.
- It was originally proposed that the on-road Regulations would require that application fees should not exceed the sum of the costs incurred in doing the work and a reasonable profit, taking into account the normal commercial rate for such work. It was also proposed that the same requirement would be added to the off-road Regulations. The Regulations are now drafted in less prescriptive terms than was proposed in the consultation paper. The Regulations now simply require that a fee is paid to the authorising body of such amount as may be determined by that body and that any such fee must not exceed a reasonable amount; there is no reference to the inclusion of a reasonable profit element within the fee. The reason for this is that, having reconsidered this proposal, we have reached the view that it is not sufficiently clear that the enabling powers allow the setting of charges other than on a cost recovery basis. It therefore seems to us that the safer course of action is for authorising bodies to set their fees on a cost recovery basis only and not to include a profit element.
- In addition, and in response to the consultation comments received, we are now proposing that both sets of Regulations (on-road and off-road) will specify that the authorising body must publish the levels of any fees and that they must publish details of any increase in fees at least three months before it takes effect.

2.12 The draft Regulations were circulated to key stakeholders on the 17 February 2010.

3. Options

Option 1: Do nothing

3.1 This is a loss making activity for the Club and MSA, making it increasingly difficult for them to carry out their legal obligations under the Regulations. The Association of Rover Clubs Ltd would not be able to transfer the authorising function to the new Association of Land Rover Clubs Ltd. The Auto Cycle Union would not be able to transfer the authorising function to its commercial arm Auto Cycle Union Ltd. The bodies named in existing Regulations cannot legally refuse to carry out the authorisation process, but unless updated this will continue to place an unfair burden on these organisations. This could have adverse effects on motor event organisers and participants if it makes it harder for them to get authorisations.

Option 2: Review structure and fees

3.2 Make the changes to the legislation, allowing a smooth transfer of responsibility between the authorising bodies, removing the losses caused by leaving fees for on-road events at the level they were set in 1993.

4. Costs and Benefits

4.1 Sectors and groups affected are the authorising bodies for motor events, as well as the organisers of and participants in events. These may include both commercial and voluntary organisations.

Benefits

4.2 Appointing the MSA as an authorising body will mean that it can continue its current work and make the decisions to grant authorisations. MSA will also benefit from being able to keep the fees at the right level to reflect the costs of administering the authorising process.

4.3 The Auto Cycle Union Ltd and the Association of Land Rover Clubs Ltd will be able to take over the authorisation of off-road events from the Auto Cycle Union and Association of Rover Clubs Ltd.

4.4 The new Regulations mean that in future changes to application fees for on-road can be made, without the need for further Regulations.

Financial Implications

4.6 The proposed changes are likely to lead to an increase in fees for organisers of on-road motor events. However, the fees were last changed in 1993.

4.7 The fee change proposals for on-road and off-road events include a requirement that fees must not exceed a reasonable amount.

4.8 Environmental impact assessment, social impact assessment, health impact assessment and race impact assessment are not necessary in this case. The proposed changes only affect the administration of the arrangements for authorising motor sports events. The nature and conduct of the events themselves will not be affected by these proposals.

5.0 Small Firms Impact Test

5.1 Most event organisers are car or motorcycle clubs, so will be small businesses or voluntary bodies. According to the information provided by MSA, the 222 on-road events organised in 2005 were organised by around 150 different bodies. All but two of the events were organised by clubs rather than companies. Around 750 clubs are affiliated to MSA, including those that were involved in off-road events. Further bodies will have been involved in off-road events authorised by the other ten authorising bodies.

5.2 The impact on business, charities or voluntary bodies is that, where they are event organisers' there will be an increase in the application fees they pay for on-road event authorisations, which have not been raised since 1993. Most event organisers' are car or motorcycle clubs, which are small businesses or voluntary bodies. As described elsewhere, the increases are considered necessary to remove the unfair burden on the authorising body that

results from a loss making activity. Because the event organisers' are predominantly and similarly small-scale, it is not practicable to exempt them from the increases.

6.0 Competition Assessment

6.1 The increase in fees would only apply directly and equally to all on-road event organisers and there would be little or no direct impact in terms of competition. However, as the increase in fees is likely to be greater for the higher mileage events it may make some of them less financially viable.

7.0 Enforcement, Sanctions and Monitoring

7.1 The Regulations provide that fees must not exceed a reasonable amount. There are also new provisions requiring publication of fee levels and prior notification of not less than three months of any increases. There are no specific plans to monitor and review the application of the new fees provisions. However, should it become apparent to the Department that the authorising bodies are setting fees at an unacceptably high level; the Department will then take steps to review the position.

8.0 Equality Impact Assessment

8.1 We have answered "no" to all of the questions on the equality screening proforma and, as such, see no need to go further as there are no impacts.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	Yes	Yes/No
Small Firms Impact Test	Yes	Yes/No
Legal Aid	No	Yes/No
Sustainable Development	No	Yes/No
Carbon Assessment	No	Yes/No
Other Environment	No	Yes/No
Health Impact Assessment	No	Yes/No
Race Equality	Yes	Yes/No
Disability Equality	Yes	Yes/No
Gender Equality	Yes	Yes/No
Human Rights	Yes	Yes/No
Rural Proofing	Yes	Yes/No

Annexes

Annex