

EXPLANATORY MEMORANDUM TO
THE DRIVING LICENCES (EXCHANGEABLE LICENCES) (AMENDMENT)
ORDER 2013

2013 No. 22

1. This explanatory memorandum has been prepared by the Department for Transport. It is being submitted voluntarily as the instrument is not required to be laid before Parliament.

2. Purpose of the instrument

2.1 The purpose of this instrument is to allow persons holding driving licences issued in specified countries to drive in Great Britain (GB) without passing a driving test in GB (i.e. by way of exchanging their licence for a licence issued in GB). But such licences may only be exchanged for a licence issued in GB if the holder has passed a driving test in the country of issue or in another specified country or territory.

2.2 The instrument also makes changes to the references to vehicle licence categories in other instruments.

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

None.

4. Legislative Context

4.1 Section 108(2) of the Road Traffic Act 1988 allows the designation of countries or territories outside the EEA for the purpose of the definition of “exchangeable licence” in section 108(1) of that Act. Such designation allows the holder of a licence issued in a designated country or territory in respect of a category of vehicle to drive a vehicle of that category in GB and to exchange that licence for a licence issued in GB.

4.2 This instrument revokes other instruments made before 1999 which designated specified countries and territories for the purpose referred to in paragraph 4.1 but without any condition relating to the passing of a driving test. This instrument re-designates the specified countries and territories and imposes conditions regarding the passing of a driving test.

4.3 As mentioned in paragraph 2.2, amendments are made to other instruments. These amendments are to designation orders made after 1998 and are to update the references to vehicle categories following implementation of the Third Driving Licences Directive (2006/126/EC).

5. Territorial Extent and Application

This instrument applies to Great Britain.

6. European Convention on Human Rights

As the instrument does not amend primary legislation no statement is required.

7. Policy Background

- *What is being done and why*

7.1 GB has in place designation arrangements for the exchange of driving licences with 15 countries outside the EEA. These arrangements are put in place once the country has demonstrated that their driving test standards satisfy GB requirements-although in respect of designation orders made before 1999 this was not reflected in any condition relating to the passing of a test. As mentioned in paragraph 4.1, the orders enable such licence holders to drive in GB and to exchange their licence for a GB licence without having to pass a test in GB. These exchange arrangements only apply to small vehicle driving entitlement (car or motorcycle).

7.2 The exchange agreements in place before 1999 allow those holding driving licences from countries with unproven testing standards to ultimately obtain a GB licence issued by way of exchange. An individual can obtain a licence from a country from which we do not exchange, exchange that licence for one from a country with which we do exchange, and then exchange that for a GB licence. For countries where licence exchange arrangements were put in place after 1998, exchange is dependent on the person having passed a driving test in that country or in another country also having proven testing standards.

7.3 As mentioned in paragraph 4.2, the amendments in this instrument will apply the condition that the test must have been taken in the country specified or other specified country with proven testing standards. This will ensure consistency of treatment for all exchangeable licence countries namely; Andorra, Australia, Barbados, the British Virgin Islands, Hong Kong, Japan, New Zealand, Singapore, Switzerland and Zimbabwe (all originally designated before 1999) and Canada, South Africa, Korea, Monaco, the Falkland Islands and the Faroe Islands (all designated after 1998).

- *Consolidation*

7.4 The amendments to other designation orders as referred to in paragraph 4.3 are minor and hence consolidation of those instruments is not considered appropriate.

8. Consultation outcome

8.1 The proposed legislative change was informally consulted on for a period of six weeks from 11 July to 22 August 2012. The consultation took the form of a letter and was limited to a select group of 14 organisations that we identified as having a particular interest in the matter. A short targeted consultation, with ministerial consent, was considered sufficient because the proposed change has a minimal impact on the current designated countries, has a limited scope and involves removing inconsistency in the current legislation rather than any change in policy or new methods of working.

8.2 Amongst the organisations contacted were the Police Federation of England and Wales, the Home Office, the British Insurance Brokers' Association (BIBA), the Royal Society for the Prevention of Accidents (RoSPA) and the Federation of Small Businesses. There was

a low level of response to the consultation with only three replies received. The organisations that responded gave complete support to the proposals. The Police Federation's view was that the updating of exchange arrangements and resulting loss of the two tier system were long overdue, RoSPA thought removing the current anomaly was both sensible and important and BIBA merely commented that they were in agreement with the proposed changes.

8.3 Although the small number of responses reflects to an extent the fact that the consultation was only sent to a limited number of stakeholders it is perhaps also indicative of the fact that there is little concern about the intended legislative amendments as they are considered to have road safety benefits.

8.4 This issue has previously attracted media interest which has focussed on the potential road safety risks of the current system. The criticism has also touched on the potential security risks given that driving licences are often accepted as proof of identity. Although publicising the introduction of conditions relating to the passing of a driving test could have generated positive coverage that the issue was being tackled it was decided not to publicise the consultation widely as it may have resulted in an increase in licence exchange applications from those who would, once the instrument is in force, not be permitted either to drive in GB without passing a test or to exchange their licence for one issued in GB.

8.5 It is recognised that this may result in complaints by those currently driving in GB using licences which cease to be exchangeable licences once the instrument is in force. However, we are prepared to manage any criticism as there are obvious road safety benefits to preventing a driver from avoiding the requirement to pass a satisfactory driving test.

9. Guidance

Existing leaflets and forms and guidance on the DVLA website have been updated to reflect the new rules.

10. Impact

10.1 There is no impact on business, charity or voluntary bodies.

10.2 There is no impact on the public sector.

10.3 An Impact Assessment was not prepared for this instrument.

11. Regulating small business

The legislation does not apply to small businesses.

12. Monitoring & review

DVLA will monitor and assess the impact of the legislation through analysis of driving licence application statistics.

13. Contact

Dean Lewis at the Driver and Vehicle Licensing Agency Tel: 01792 782965 or email: dean.lewis@dvla.gsi.gov.uk can answer any queries regarding the instrument