

EXPLANATORY MEMORANDUM TO
THE DRIVERS' HOURS AND TACHOGRAPHS (AMENDMENT) (EU EXIT) (NO. 2)
REGULATIONS 2019

2019 No. 596

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Command.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

- 2.1 This instrument remedies deficiencies in Northern Ireland domestic law in the field of drivers' hours and tachographs for the carriage of goods and passengers by road, arising from the withdrawal of the UK from the EU. These amendments are made under the European Union (Withdrawal) Act 2018 ("the EU Withdrawal Act").
- 2.2 This instrument makes separate amendments to the International Road Transport Permits (EU Exit) Regulations 2018 ("the Permits Regulations") to correct an error in regulation 28(2) of those Regulations to provide that the 20 working day time-limit for making an appeal applies to appeals to a traffic commissioner in Great Britain. A new sub-paragraph (3A) is also inserted to allow for the period of time in which an appellant must be informed of the outcome of an appeal to be extended.

Explanations

What did any relevant EU law do before exit day?

- 2.3 Regulation (EC) No. 561/2006 ("the EU Drivers' Hours Regulation") specifies EU-wide drivers' hours rules. Under this Regulation, drivers must not drive more than a certain number of hours in any given day, week, and fortnight. They must also take a minimum of breaks and rests. These rules apply to drivers of most large vehicles (i.e. goods vehicles weighing over 3.5 tonnes and passenger vehicles with 10 or more seats). The rules are intended to help protect road safety and driver welfare.
- 2.4 The drivers' hours rules are enforced in Northern Ireland through the inspection of tachographs by the Driver and Vehicle Agency and the police. A tachograph is a device installed in a vehicle that drivers must use to record their driving, break and rest times. Regulation (EU) No. 165/2014 ("the EU Tachograph Regulation") specifies the rules relating to the construction, installation, use, testing and control of tachographs.
- 2.5 The EU Drivers' Hours Regulation and the EU Tachograph Regulation (together, "the EU Regulations") apply to road transport operations undertaken wholly within the EU, EEA and Switzerland. For operations starting, ending or passing through a country outside the EU, EEA or Switzerland, the rules set out in the European Agreement concerning the work of Crews engaged in International Road Transport of 1st July 1970, as amended ("the AETR") apply instead, provided that that country is a Contracting Party to the AETR. The AETR is a United Nations Economic

Commission for Europe (UNECE) Agreement and the UK, the 27 EU Member States, and a further 21 countries (including EEA Member States Norway and Lichtenstein, but not Iceland), are Contracting Parties to it.

Why is it being changed?

- 2.6 The changes made under the EU Withdrawal Act are designed to ensure that the existing regulatory regime for drivers' hours and tachographs remains effective from Exit Day. In the absence of these amendments, some of this legislation, which was drafted in the context of the UK's membership of the EU, would either lack clarity or fail to operate effectively after Exit Day. This would cause issues in terms of accessibility and usability, and could put the enforceability of the regime in doubt. This would mean that following EU Exit there would be no effective system in place to control maximum driving times and minimum rest times for drivers of commercial vehicles, raising serious road safety risks and placing the UK in breach of its international obligations under the AETR.
- 2.7 The changes being made to domestic Northern Ireland implementing provisions of the EU Regulations and the AETR are designed to maintain the existing system for the road transport industry following the UK's withdrawal from the EU. For example, this instrument replaces references which relate to the UK as an EU Member State, in order to ensure that existing regulatory requirements continue to apply within Northern Ireland when the UK is no longer an EU Member State. This instrument also makes amendments to relevant provisions to enable vehicles which have tachographs fitted in the EU to continue to be used in Northern Ireland, whilst also amending the legislation so that the requirements set out in the retained EU law apply.

What will it now do?

- 2.8 The rules relating to drivers' hours and tachographs will remain the same for road transport operations undertaken exclusively within the United Kingdom. This ensures that drivers of large goods and passenger vehicles will continue to be subject to the same driving times, breaks and rest periods as before Exit Day. The same tachograph requirements that exist before Exit Day will also apply after Exit Day. The rules on drivers' hours and tachographs for these UK-only operations, which do not change, will be set out in retained domestic versions of the EU Drivers' Hours Regulation and the EU Tachographs Regulation from Exit Day ("retained EU law"). The necessary amendments to remedy deficiencies in the retained EU law arising from the withdrawal of the UK from the EU are contained in the Drivers' Hours and Tachographs (Amendment etc.) (EU Exit) Regulations 2019, which has UK extent (see section 3, below).
- 2.9 EU law will no longer apply to international road transport operations between the UK and EU Member States, Switzerland, or non-EU EEA Member States. The AETR rules (which are the rules that apply internationally), will instead apply in respect of operations to these countries after Exit Day. As the EU Regulations and the AETR contain the same rules, international road transport operations will be subject to the same drivers' hours and tachographs requirements after Exit Day as before Exit Day.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 This instrument was laid in draft for sifting before the House of Commons European Statutory Instruments Commission (the ESIC) and the House of Lords Secondary Legislation Scrutiny Committee (the SLSC) (together, the Committees) on 26th February 2019. The Committees concluded on 12th March 2019 that this instrument should follow the negative procedure.
- 3.2 These Regulations amend Northern Ireland domestic implementing legislation to address deficiencies arising from the UK's withdrawal from the EU. A separate statutory instrument, the Drivers' Hours and Tachographs (Amendment etc.) (EU Exit) Regulations 2019, amends the domestic implementing legislation which applies in Great Britain to achieve the same result. Those Regulations also amend the relevant retained EU law, to ensure that it continues to function when the UK leaves the EU. In consultation with, and on behalf of, the Northern Ireland Department for Infrastructure those regulations amend the retained EU Regulations for the whole of the UK.
- 3.3 Those Regulations are made under section 8(1) of the European Union (Withdrawal) Act 2018 ("the EU Withdrawal Act") and provide, inter alia, for deficient EU Commission powers to legislate (for example through implementing acts) to be replaced with regulation-making powers to be exercised by the Secretary of State. Such a provision falls within paragraph 1(2) of Part 1 of Schedule 7 to the EU Withdrawal Act which determines that the instrument requires approval by a resolution of each House of Parliament. By contrast, the amendments made by this instrument under section 8(1) of the EU Withdrawal Act do not fall within paragraph 1(2) of Part 1 of Schedule 7 and therefore in accordance with sub-paragraph (3) of that Schedule, this instrument is subject to annulment in pursuance of a resolution of either House of Parliament (the negative resolution procedure).
- 3.4 The separate Drivers' Hours and Tachographs (Amendment etc.) (EU Exit) Regulations 2019, referred to above, also make amendments to Great Britain implementing provisions under the European Communities Act 1972. Corresponding amendments for Northern Ireland have been made in the Drivers' Hours and Tachographs (Amendment) Regulations (Northern Ireland) 2019 (S.R. 2019/12) at the Northern Ireland Assembly. This instrument further amends certain provisions that were amended by that statutory rule which comes into operation on 11th March 2019.
- 3.5 This instrument makes amendments to Northern Ireland legislation under the EU Withdrawal Act.
- 3.6 It also makes two amendments to the Permits Regulations which are made under powers contained in the Haulage Permits and Trailer Registration Act 2018 and which apply to the whole of the UK. Due to the current absence of the Northern Ireland Assembly, the amendments under the EU Withdrawal Act to Northern Ireland legislation are being made by a UK Minister on behalf of the Northern Ireland Department for Infrastructure. The Department for Transport is using this legislative opportunity of a statutory instrument relating to the subject of road traffic to also correct an error in, and make small amendments to, the Permits Regulations in Part 4 of this instrument rather than in a separate amending instrument. As this instrument is made partly to correct a defect in the Permits Regulations, it will be issued free of charge to all known recipients of the Permits Regulations.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.7 As the instrument is subject to the negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is the United Kingdom for Parts 1 and 4 and Northern Ireland for Parts 2 and 3;
- 4.2 The territorial application of this instrument is the same as the territorial extent of this instrument, as set out above.

5. European Convention on Human Rights

- 5.1 Jesse Norman, Minister of State, has made the following statement regarding Human Rights:

“In my view the provisions of the Drivers’ Hours and Tachographs (Amendment) (EU Exit) (No. 2) Regulations 2019 are compatible with the Convention rights.”

6. Legislative Context

- 6.1 The EU Drivers’ Hours Regulation applies to drivers of goods vehicles with a maximum permissible weight exceeding 3.5 tonnes and passenger vehicles with 10 or more seats, unless covered by a specific EU-wide exemption or a national derogation. It prescribes maximum limits on driving time and minimum requirements for break and rest periods and recording requirements for drivers of vehicles within the scope of that Regulation. These prescribed limits on driving are commonly referred to as the “EU drivers’ hours rules”. Similar provisions are in force for most of the exempted large vehicles (including most buses) and are commonly referred to as “domestic drivers’ hours rules”.
- 6.2 A tachograph is a recording device on board the vehicle used to monitor and enforce a driver’s compliance with the EU drivers’ hours rules. The EU Tachograph Regulation sets out the requirements on the construction, installation, use, testing and control of tachographs used in road transport in the EU. These requirements are commonly referred to as “the EU tachograph rules”.
- 6.3 On Exit Day, the EU Withdrawal Act makes provision for repealing the European Communities Act 1972 and will preserve EU law, as it stands at the moment of exit, in UK law. It enables the creation of a new body of domestic legislation by bringing the texts of directly applicable EU legislation into domestic legislation, as well as saving EU-derived domestic legislation which was made to implement the UK’s obligations as a member of the EU. The Act also contains temporary power to make secondary legislation to enable Ministers and the devolved administrations to deal with deficiencies in retained EU law, to ensure that the UK’s legal system continues to function properly outside the EU. The EU Withdrawal Act does not preserve EU directives. Changes made using powers under the EU Withdrawal Act are therefore made to the relevant legislation which implements an EU directive or regulation in the UK.

- 6.4 The above means that the EU Regulations will be retained EU law under the EU Withdrawal Act. The effect of this is that the EU drivers' hours and tachograph rules will continue to apply, but this will create a number of deficiencies in the current drafting of domestic legislation and in the EU Regulations themselves. Parts 2 and 3 of this instrument correct those deficiencies using powers under the EU Withdrawal Act.
- 6.5 One important deficiency relates to the scope of the key domestic enforcement provisions. The provisions of the EU Regulations are currently directly applicable in all Member States, including the UK. The liability for a breach of the EU Drivers' Hours Regulation and the driving time rules in the AETR currently arises from the definition of "applicable Community rules" in Article 2 of the Road Traffic (Northern Ireland) Order 1981, which means "any directly applicable Community provision for the time being in force about the driving of road vehicles and includes the AETR, as amended from time to time". The definition of "AETR" in the Road Traffic (Northern Ireland) Order 1981 (as inserted by S.R. 2019/12) confirms that it is "applied by Article 2(3) of the Community Drivers' Hours Regulation". The Community Drivers' Hours Regulation is defined as "Regulation (EC) No 561/2006 of the European Parliament and of the Council as amended from time to time" which in this document is referred to as the EU Drivers' Hours Regulation. This instrument amends the relevant definitions in the Road Traffic (Northern Ireland) Order 1981 to ensure the continued enforceability of the drivers' hours rules, as set out in retained EU law, and in the AETR.
- 6.6 A number of other drafting changes consequential on the UK's withdrawal from the EU are required. For example, the scope of the working time rules contained in the Road Transport (Working Time) Regulations (Northern Ireland) 2005 was drafted on the basis that the UK is an EU Member State. This provision therefore requires amendment to ensure the continued application of these regulatory requirements.
- 6.7 The Permits Regulations set out the administrative provisions: for applying for and granting an international road haulage permit; for how such application will be determined; and for the information that must be included in a permit. They also set out the circumstances in which a permit may be cancelled, provide for appeals and enable fees to be charged. This instrument amends the Permits Regulations to correct an error in regulation 28(2). The time-limit for making an appeal of 20 working days from the day on which the operator was notified of the decision to cancel a permit is amended so that it only applies in respect of appeals to a traffic commissioner in Great Britain. The time limit for making an appeal to the Upper tribunal is in rule 23 of the Tribunal Procedure (Upper Tribunal) Rules 2008. Additionally, the Permit Regulations are amended to allow a traffic commissioner to extend the time by which an appellant must be notified of an appeal where this is necessary in order for the case to be dealt with fairly and justly.

7. Policy background

What is being done and why?

- 7.1 This instrument addresses deficiencies which arise in Northern Ireland legislation as a result of the UK's withdrawal from the EU, to ensure that the statute book continues to function after Exit Day.

- 7.2 The regulatory provisions relating to drivers' hours and tachographs are a fundamental pillar of the UK's road safety regime. They limit the time drivers can spend at the wheel and thus help reduce fatigue-related accidents, ensure fair competition in the industry and improve the working conditions of drivers. The policy intention of this instrument is that this regulatory regime will be fully functional and enforceable in Northern Ireland from Exit Day. This instrument does not modify the requirements for those drivers subject to the drivers' hours or tachograph rules.
- 7.3 Part 2 contains amendments to Northern Ireland primary legislation to address issues arising from EU Exit. It amends deficient definitions and removes out-dated powers to make regulations for the purpose of applicable Community rules or provisions.
- 7.4 Part 3 contains amendments to Northern Ireland secondary legislation. It amends three sets of Regulations: the Passenger and Goods Vehicles (Recording Equipment) Regulations (Northern Ireland) 1996; the Road Transport (Working Time) Regulations (Northern Ireland) 2005 and the Community Drivers' Hours and Recording Equipment (Exemptions and Supplementary Provisions) Regulations (Northern Ireland) 2009. These include provisions to ensure that tachograph equipment that has been installed in accordance with the EU version of the EU Tachograph Regulation in an EU Member State continues to be permitted for use in Northern Ireland. For example, this ensures that a vehicle based in an EU Member State and operating temporarily in Northern Ireland is able to do so without being in contravention of the tachograph rules. Since the EU version of the EU Tachograph Regulation and the retained EU law version of the EU Tachograph Regulation will be substantively the same at Exit Day, this retains the status quo.
- 7.5 By the same logic, amendments are made to the relevant provisions to ensure that tachograph equipment in compliance with, and type approved in relation to, the relevant technical specifications made under the EU version of the EU Tachograph Regulation continue to be permitted for use in Northern Ireland. For example, a tachograph with type approval issued by an EU Member State in relation to the EU version of the technical specifications, which is imported for supply in Northern Ireland, will be compliant with the rules. As above, since the EU version of the technical specifications and the retained EU law version of the technical specifications will be substantively the same at Exit Day, these provisions serve to retain the status quo. References to the EU version of the EU Tachograph Regulation contain any future amendments made at the EU level. This ensures that this arrangement continues to function if the EU version of the EU Tachograph Regulation is modified in the future. Relevant parties will be notified of and, where appropriate, consulted, in relation to any such changes.
- 7.6 Part 3 also amends secondary legislation relating to the approval of tachograph fitters, type-approval of tachograph equipment, working time rules and exemptions from drivers' hours rules to make consequential drafting changes arising from EU Exit to ensure these provisions continue to function and are as clear as possible.
- 7.7 The Permits Regulations set out the administrative provisions for the haulage permit scheme. This applies for the UK's existing international agreements that require haulage permits and any future haulage agreements arising from leaving the EU that require haulage permits. The Permits Regulations specify when a haulage permit may be cancelled and includes provisions for appeals against a decision to cancel a permit. The Permits Regulations include timings when appeals must be brought and when the appellant must be informed of the outcome of the appeal.

7.8 Appeals in Great Britain will be made to a traffic commissioner. In Northern Ireland there is no traffic commissioner. Instead, appeals are to be made to the Upper Tribunal, which also serves as the appeals body for appeals against decisions made by the Northern Ireland Department for Infrastructure. This instrument corrects the Permit Regulations by applying the timings for appeals only to appeals made to the traffic commissioners. This has the effect in Northern Ireland of applying the existing Procedural Rules for the Upper Tribunal. In addition, this instrument allows for a traffic commissioner to extend the time by which an appellant must be notified of the outcome of an appeal where this is necessary for a case to be dealt with fairly and justly. This change is to ensure that appeals are heard fairly and justly and mirrors the approach used in other areas where appeals are heard by a traffic commissioner.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument is being made using the power in section 8 of the EU Withdrawal Act in order to address failures of retained EU law to operate effectively or other deficiencies arising from the withdrawal of the UK from the EU. The instrument is also made under paragraph 21 of Schedule 7 to the EU Withdrawal Act, in conjunction with the section 8 power. In accordance with the requirements of that Act the Minister has made the relevant statements as detailed in Part 2 of the Annex to this Explanatory Memorandum.

8.2 Alongside the EU Withdrawal Act powers the instrument is also being made under sections 4(1) and (2) of the Haulage Permits and Trailer Registration Act 2018.

9. Consolidation

9.1 There are no plans to consolidate existing Northern Ireland legislation concerning drivers' hours and tachographs.

10. Consultation outcome

10.1 Department for Transport Ministers and officials have regular engagement with the road transport industry. Through specific meetings and at long-established stakeholder forums, a number of issues related to the UK's withdrawal from the EU have been addressed. This includes plans for making secondary legislation to ensure that the statute book continues to function irrespective of the outcome of negotiations. There was support amongst stakeholders for ensuring that this is the case, including in relation to the drivers' hours and tachograph rules, which are fundamental to the UK's road safety regime. This instrument ensures that from Exit Day, for a driver or operator subject to the drivers' hours and tachograph rules, the regulatory requirements will be the same as those which applied before Exit Day for those to whom the rules apply.

10.2 The amendments to the Permits Regulations were consulted on with the appeals bodies and road haulage industry trade associations. Where responses were received, these were positive.

11. Guidance

11.1 The Department for Infrastructure (Northern Ireland) and the Driver and Vehicle Agency (Northern Ireland) already produces guidance for drivers and transport

operators on the drivers' hours and tachograph rules. This guidance is available on the following website:

<https://www.nidirect.gov.uk/articles/tachograph-and-drivers-hours>

- 11.2 In due course the guidance will be updated to correct references to "EU drivers' hours rules".
- 11.3 The changes to appeals timings in the Permits Regulations will be included in the general guidance on permits.

12. Impact

- 12.1 The impact on business, charities or voluntary bodies is minimal. This is because there will be no substantive changes to the requirements of the drivers' hours and tachograph rules as a consequence of this instrument, which is designed to maintain the regulatory status quo in the context of EU Exit. The changes to appeals timings in the Permits Regulations are procedural and the impact on businesses will be minimal.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 An Impact Assessment has not been prepared for this instrument because the costs and benefits to business are expected to be minimal.

13. Regulating small business

- 13.1 The legislation applies to activities that are undertaken by small businesses.

14. Monitoring & review

- 14.1 The approach to monitoring of this legislation is that no specific monitoring arrangements are needed.
- 14.2 As this instrument is made under the EU Withdrawal Act, no review clause is required.
- 14.3 In so far as this instrument is made under the Haulage Permits and Trailer Registration Act 2018, those regulations must be reviewed by the Secretary of State from time to time by virtue of review provisions already contained in the International Road Transport Permits (EU Exit) Regulations 2018, which this instrument amends.

15. Contact

- 15.1 Donald Starritt at the Department for Infrastructure (NI) or Robert Leiper at the Department for Transport (UK) can be contacted with any queries regarding this instrument. Email: donald.starritt@infrastructure-ni.gov.uk or Robert.leiper@dft.gov.uk. Telephone: 028 9054 1152 or 07773073551.
- 15.2 Duncan Price, Divisional Manager of the Freight Operator Licensing & Roadworthiness Division at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Jesse Norman, Minister of State, can confirm that this Explanatory Memorandum meets the required standard.

Annex

Statements under the European Union (Withdrawal) Act 2018

Part 1

Table of Statements under the 2018 Act

This table sets out the statements that may be required under the 2018 Act.

Statement	Where the requirement sits	To whom it applies	What it requires
Sifting	Paragraphs 3(3), 3(7) and 17(3) and 17(7) of Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) to make a Negative SI	Explain why the instrument should be subject to the negative procedure and, if applicable, why they disagree with the recommendation(s) of the SLSC/Sifting Committees
Appropriate-ness	Sub-paragraph (2) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2	A statement that the SI does no more than is appropriate.
Good Reasons	Sub-paragraph (3) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2	Explain the good reasons for making the instrument and that what is being done is a reasonable course of action.
Equalities	Sub-paragraphs (4) and (5) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2	Explain what, if any, amendment, repeals or revocations are being made to the Equalities Acts 2006 and 2010 and legislation made under them. State that the Minister has had due regard to the need to eliminate discrimination and other conduct prohibited under the Equality Act 2010.
Explanations	Sub-paragraph (6) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2 In addition to the statutory obligation the Government has made a political commitment to include these statements alongside all EUWA SIs	Explain the instrument, identify the relevant law before exit day, explain the instrument's effect on retained EU law and give information about the purpose of the instrument, e.g., whether minor or technical changes only are intended to the EU retained law.

Criminal offences	Sub-paragraphs (3) and (7) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9, and 23(1) or jointly exercising powers in Schedule 2 to create a criminal offence	Set out the ‘good reasons’ for creating a criminal offence, and the penalty attached.
Sub-delegation	Paragraph 30, Schedule 7	Ministers of the Crown exercising sections 10(1), 12 and part 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved Authority by Statutory Instrument.	State why it is appropriate to create such a sub-delegated power.
Urgency	Paragraph 34, Schedule 7	Ministers of the Crown using the urgent procedure in paragraphs 4 or 14, Schedule 7.	Statement of the reasons for the Minister’s opinion that the SI is urgent.
Explanations where amending regulations under 2(2) ECA 1972	Paragraph 13, Schedule 8	Anybody making an SI after exit day under powers outside the European Union (Withdrawal) Act 2018 which modifies subordinate legislation made under s. 2(2) ECA	Statement explaining the good reasons for modifying the instrument made under s. 2(2) ECA, identifying the relevant law before exit day, and explaining the instrument’s effect on retained EU law.
Scrutiny statement where amending regulations under 2(2) ECA 1972	Paragraph 16, Schedule 8	Anybody making an SI after exit day under powers outside the European Union (Withdrawal) Act 2018 which modifies subordinate legislation made under s. 2(2) ECA	Statement setting out: a) the steps which the relevant authority has taken to make the draft instrument published in accordance with paragraph 16(2), Schedule 8 available to each House of Parliament, b) containing information about the relevant authority’s response to— (i) any recommendations made by a committee of either House of Parliament about the published draft instrument, and (ii) any other representations made to the relevant authority about the published draft instrument, and, c) containing any other information that the relevant authority considers appropriate in relation to the scrutiny of the instrument or draft instrument which is to be laid.

Part 2

Statements required when using enabling powers under the European Union (Withdrawal) Act 2018

1. Sifting statement(s)

- 1.1 The Minister of State, Jesse Norman, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view the Drivers’ Hours and Tachograph (Amendment) (EU Exit) (No.2) Regulations 2019 should be subject to annulment in pursuance of a resolution of either House of Parliament (i.e. the negative procedure)”.

- 1.2 This is the case because:

(a) the instrument does not contain provisions falling within paragraph 1(2) of Schedule 7 to the European Union (Withdrawal) Act 2018 requiring it to be made under the affirmative procedure;

(b) the effect of the instrument is primarily to maintain domestically in Northern Ireland the existing drivers’ hours and tachographs regime, but adjusting the language which would otherwise indicate the United Kingdom was a member State of the European Union.

2. Appropriateness statement

- 2.1 The Minister of State, Jesse Norman, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view the Drivers’ Hours and Tachographs (Amendment) (EU Exit) (No. 2) Regulations 2019 does no more than is appropriate.”

- 2.2 This is the case because the changes are mostly minor and technical in nature, and are necessary to ensure that existing legislation concerning drivers’ hours and tachographs continues to operate effectively in Northern Ireland in light of the UK’s withdrawal from the EU.

3. Good reasons

- 3.1 The Minister of State, Jesse Norman, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In my view there are good reasons for the provisions in this instrument, and I have concluded they are a reasonable course of action.”

- 3.2 This is the case because the instrument is limited in effect to simply correcting deficiencies in the legislation it relates to, resulting from the UK leaving the EU.

4. Equalities

- 4.1 The Minister of State, Jesse Norman, has made the following statement:

“The draft instrument does not amend, repeal or revoke a provision or provisions in the Equality Act 2006 or the Equality Act 2010 or subordinate legislation made under those Acts.

The effect of this instrument is to ensure that existing rules concerning social conditions for drivers of goods or passenger vehicles continue to apply via domestic law on and after Exit Day.”

- 4.2 The Minister of State, Jesse Norman, has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:

“In relation to the draft instrument, I, Jesse Norman, have had due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010. This Act does not extend to Northern Ireland, but as the majority of the provisions of the Drivers’ Hours and Tachographs (Amendment) (EU Exit) (No. 2) Regulations 2019 extend only to Northern Ireland, I have given equivalent due regard to the need to eliminate discrimination, harassment, victimisation, and any other conduct that is prohibited by or under the Equality Act 2010, in relation to Northern Ireland.”

5. Explanations

- 5.1 The explanations statement has been made in section 2 of the main body of this explanatory memorandum.