

EXPLANATORY MEMORANDUM TO
THE MOTOR VEHICLES (DRIVING LICENCES) (AMENDMENT)
REGULATIONS 2022

2022 No. [XXXX]

1. Introduction

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

2. Purpose of the instrument

- 2.1 This instrument makes changes to licence upgrade arrangements so that candidates passing their driving test using a vehicle with automatic transmission also gain the equivalent manual entitlement, provided they have already passed a test for a licence using a vehicle with manual transmission in another category. These arrangements already apply in relation to lorries and buses (categories C and D respectively), and their trailer equivalents (categories C+E and D+E respectively). This instrument extends these arrangements to medium sized lorries (category C1) and mini-buses (category D1), and their trailer equivalents (categories C1+E and D1+E respectively), as well as the car and trailer category (B+E).
- 2.2 This instrument also reduces the minimum engine size of motorcycles that candidates can bring to the A2 test from ‘395cc’ (cubic centimetres) to ‘245cc’. In addition to mopeds, there are three motorcycle categories, which, prior to this instrument, and in simple terms are set out in the table below, alongside the Minimum Test Vehicle (“MTV”), requirement again expressed in simple terms:

Category	Licence specification	MTV
AM (moped)	Speed range between 25km/h and 45 km/h	Any 2 wheeled moped
A1 – Light motorcycle	Up to 11 kW and 125 cc engine size	At least 115cc and capable of 90 km/h
A2 – Standard motorcycle	Up to 35kW power output	At least 395cc and at least 20kW, but not more than 35kW
A3 – Unrestricted motorcycle	Of unrestricted power output	At least 595cc and at least 50kW

- 2.3 Some ‘250cc’ motorcycle engines now produce more than 20kW power output. They are in the A2 category but cannot be used for the test because the MTV requirement stipulates the use of a motorcycle with a larger engine.

- 2.4 Prior to this adjustment motorcycle riders routinely took tests using an A3 motorcycle with an engine size that had been restricted to bring it into line with the A2 MTV requirement. This issue only arose in relation to the A2 category and following these changes, it is expected that candidates will start to use smaller motorcycles that are more representative of the A2 category.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 The instrument makes amendments to Table B of Schedule 9 to the Motor Vehicles (Driving Licences) Regulations 1999, which was previously amended by the Motor Vehicles (Driving Licences) (Amendment) Regulations 2014 (S.I. 2014/3190) under powers including section 2(2) of the European Communities Act 1972. It therefore engages the procedural and publication requirements of paragraphs 13 to 15 of Schedule 8 to the European Union (Withdrawal) Act 2018, which have been complied with.

4. Extent and Territorial Application

- 4.1 The territorial extent of this instrument is England and Wales and Scotland.
- 4.2 The territorial application of this instrument is England and Wales and Scotland.

5. European Convention on Human Rights

- 5.1 The Parliamentary Under Secretary of State, Baroness Vere of Norbiton, has made the following statement regarding Human Rights:
- “In my view the provisions of the Motor Vehicles (Driving Licences) (Amendment) Regulations 2022 are compatible with the Convention rights.”

6. Legislative Context

- 6.1 The instrument reflects policy changes originally required by Directive 2020/612 which had a transposition date of 1st November 2020. It was originally intended to give effect to these changes in Great Britain prior to the end of the implementation period, however now that the transposition period has ended, the opportunity is nevertheless being taken to implement similar changes in Great Britain under domestic powers in the Road Traffic Act 1988.

7. Policy background

What is being done and why?

- 7.1 The instrument implements a sensible and pragmatic modernisation of the driving test. It recognises changes in vehicles transmission technology, power, and use.
- 7.2 In 2014 changes were introduced that allowed drivers who passed a driving test for a lorry or bus (categories C and D respectively), or for those vehicles with a trailer (categories C+E and D+E respectively), using a vehicle with automatic transmission, to also gain the manual entitlement for that vehicle category. In order to be granted the manual entitlement in addition to the automatic test pass, they have to have already passed a test in a vehicle with manual transmission in another category. For example, if they pass a test in a bus that has automatic transmission, and have already passed a test in a manual car, then they will also get the manual entitlement for the bus. This

change recognised the transmission systems on large vehicles has developed in such a way that almost all of these vehicles are fitted with an automatic or semi-automatic transmission.

- 7.3 The changes made in 2014 established the principle that it was not necessary to re-examine a driver on their use of the gear box in order to grant an upgraded entitlement. However, they did not apply to the ‘sub-categories’, including medium sized lorries (category C1) and mini-buses (category D1), or for those vehicles with a trailer (categories C1+E and D1+E respectively). This instrument extends this principle for licence entitlement upgrades to the sub-categories listed above and also to the car and trailer (B+E) category.
- 7.4 In 2014 some people who responded to the consultation were concerned that road safety might be reduced if drivers were granted the manual entitlement for a large vehicle without having to pass a test in a vehicle that had manual transmission. They suggested that drivers who are used to automatic and semi-automatic gearboxes might fumble for gears and then cause an accident. During the consultation held for this measure, respondents were asked for their view on how extending the principle to smaller lorries and mini-buses might affect road safety. They were also asked to provide evidence to support their concerns. 26% of respondents indicated that they thought that road safety might be reduced. However, their concerns, which were based on the removal of the need to demonstrate proficiency in manually operating gears in a large vehicle during a test, were intuitive rather than evidence based. 64% of respondents said that there would be no significant impact on road safety. Some indicated that the operation of manual gears in medium sized lorries and mini-buses is very similar to the way they are operated in modern cars. Respondents indicated that the changes made in 2014 would have presented more risk as older lorries and buses that have a manual gear box would be harder to drive than modern medium sized lorries and minibuses. This is because of the variation in the number of gears and different clutch techniques. Whereas a modern car might have a six-speed gear box as might a medium sized lorry or minibus. Therefore, they considered that it would be safe to extend the principle, adopted in 2014, to these smaller vehicles.
- 7.5 It was also said that most drivers who will drive a medium sized lorry or mini-bus will do so in a professional capacity and that companies would provide remedial training if a driver required it. It was felt that assessment and training by employers could replace the need for a manual test as a company would not allow a driver onto the road if they were unsafe. Doing so could jeopardise the driver, vehicle, and load and might bring the risk of higher insurance premiums and loss of public reputation.
- 7.6 Desk based research was undertaken to investigate the possible effect on road safety. In particular, whether the changes made in 2014 led to increased accidents, and whether it would be safe to extend the principle to smaller vehicles. However, the official road accident data (STATS 19) do not include ‘misuse of gears’ as a category in attributing the cause of accidents. So, they could not be used for this research. Furthermore, an internet search failed to identify any existing research into the subject, which would also tend to suggest that the risk is low.
- 7.7 The Impact Assessment for this measure was ‘de-minimis’ in nature and recognised that it was beyond scope to set up any detailed field-based research. It therefore relied on specific evidence being presented by respondents to the consultation.

- 7.8 In the absence of direct evidence, and on the balance of probabilities, the Government has concluded, as it did in 2014, that it is safe to extend the principle to smaller vehicles.
- 7.9 Both industry and the public will benefit from the simplification of licence acquisition requirements. It will mean that some drivers will not have to take another test using a manual vehicle if they want to be able to drive a medium sized lorry or a minibus, or to tow a trailer, caravan, or horse box with a manual car.
- 7.10 The instrument also reduces the MTV requirement for the size of motorcycles that can be used for the A2 motorcycle test. Motorcycle engine powers have increased and now many motorcycles that have engines that are classified as '250cc' produce sufficient power output to be in the A2 category. It is therefore sensible to reduce the MTV so that candidates can use these lighter motorcycles for their A2 test.
- 7.11 Although classified as '250cc' motorcycles usually have an engine that is slightly smaller than the specification. To take account of this there is a 5cc tolerance in place, which means that the instrument states '245cc' as the legal MTV.
- 7.12 Bringing a wider range of motorcycles into scope of the MTV is intended to help riders who feel more comfortable on smaller and lighter motorcycles to take their A2 rider test. This is important because the A2 category is an increasingly popular type of motorcycle. Indeed, the registration of new motorcycles in the 151 to 400cc range more than doubled, from 6,500 in 2010 to 13,600 in 2018. In part this is thought to be because such motorcycles are ideal for urban commuting and for local delivery riders.
- 7.13 In addition, because the previous regulations specified that the motorcycle used for the A2 test had to be at least '395cc' it was common for candidates to use a much larger machine that had its power restricted so that its power output was limited down to the A2 classification. This meant that, for the purposes of the test, there was little difference between A2 motorcycles and the large A category. This greater separation will make the A2 category test more distinctive.
- 7.14 Both these measures align with the government's policy of relaxing regulations where possible.

8. European Union Withdrawal and Future Relationship

- 8.1 This instrument is not being made under the European Union (Withdrawal) Act 2018 (the "2018 Act") but relates to the withdrawal of the United Kingdom from the European Union because it amends subordinate legislation under section 2(2) of the European Communities Act 1972.
- 8.2 In accordance with the requirements of the 2018 Act the Minister has made the relevant statements as detailed in Part 2 of the Annex to this Explanatory Memorandum.

9. Consolidation

- 9.1 This instrument amends the Motor Vehicles (Driving Licences) Regulations 1999. There are no plans for consolidation.

10. Consultation outcome

- 10.1 A six-week public consultation took place between 9th February and 23rd March 2021. The consultation was published on GOV.UK page below and included an on-

line survey. 1266 people responded online and 10 people responded by e-mail, 68.1% of respondents agreed with the proposal for licence upgrades, and 67.2% agreed with the proposal for reducing the MTV for A2 motorcycles. The consultation document, and consultation response can be found at:

www.gov.uk/government/consultations/simplifying-driving-licence-upgrade-and-motorcycle-test-rules/outcome/simplifying-driving-licence-upgrade-and-motorcycle-test-rules-response-to-consultation

11. Guidance

- 11.1 The Driver and Vehicle Standards Agency (DVSA) will notify stakeholders about these changes and guidance will be published on GOV.UK

12. Impact

- 12.1 There is no, or no significant, impact on business, charities, or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 A full Impact Assessment has not been prepared for this instrument because the measures relax regulations, but do not require businesses to adjust their processes or purchase new equipment. However, the measures have been separately evaluated and the impact of each is considered to be under the 'de-minimis' threshold of £5m in direct impacts. A summary of the assessments is below.
- 12.4 The change to licence entitlement upgrades is free to industry and the public. However, it is likely to be of relatively small benefit to industry. It will also benefit people who tow trailers, both for commercial and recreational purposes such as caravans and horse boxes from not having to take an additional test.
- 12.5 The reduction in the size of motorcycles that can be used for the A2 rider test both responds to developments in engine power and to the popularity of this category of motorcycle. There is no obligation on motorcycle trainers to buy new motorcycles and therefore no direct consequential cost. However, because smaller motorcycles are cheaper to buy and less costly to maintain, there may be some cost-savings for trainers who respond by using a smaller motorcycle for their A2 training. This instrument may also encourage more riders to take training and come forward for their A2 test.

13. Regulating small business

- 13.1 The legislation applies to activities that are undertaken by small businesses.
- 13.2 No specific action is proposed to minimise regulatory burdens on small businesses. This is because the measures relax regulations. It will be up to individual businesses to choose what adjustments, if any, to make. The changes should benefit small businesses by for example widening the scope of the size of vehicles that can be used for training for A2 motorcycle tests.

14. Monitoring & review

- 14.1 The approach to monitoring of this legislation is that it will be formally reviewed three years after coming into force, and then every five years after this.

15. Contact

- 15.1 Kathleen Pearson at DVSA Telephone: 0758455175 or email: kathleen.pearson@dvsa.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Mark Magee, Deputy Director for Strategy, Policy and Digital Technology Directorate at DVSA can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Baroness Vere of Norbiton, Parliamentary Under Secretary of State at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.

Annex

Statements under the European Union (Withdrawal) Act 2018 and the European Union (Future Relationship) Act 2020

Part 1A

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) or 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
Appropriateness	Sub-paragraph (2) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1) or 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) or 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) or 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) or 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 IP completion 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	Sub-paragraphs (3) and (7)	Ministers of the Crown	Set out the 'good reasons' for creating a

offences	of paragraph 28, Schedule 7	exercising sections 8(1) or 23(1) or jointly exercising powers in Schedule 2 to create a criminal offence	criminal offence, and the penalty attached.
Sub-delegation	Paragraph 30, Schedule 7	Ministers of the Crown exercising section 8 or 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 5 or 19, Schedule 7.	Statement of the reasons for the Minister's opinion that the SI is urgent.
Scrutiny statement where amending regulations under 2(2) ECA 1972	Paragraph 14, Schedule 8	Anybody making an SI after IP completion day under powers conferred before the start of the 2017-19 session of Parliament 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.
Explanations where amending regulations under 2(2) ECA 1972	Paragraph 15, Schedule 8	Anybody making an SI after IP completion 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 IP completion day, and explaining the instrument's effect on retained EU law.

Part 1B

Table of Statements under the 2020 Act

This table sets out the statements that may be required under the 2020 Act.

Statement	Where the requirement sits	To whom it applies	What it requires
Sifting	Paragraph 8 Schedule 5	Ministers of the Crown exercising section 31 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

Part 2

Statements required under the European Union (Withdrawal) Act 2018

1. Scrutiny statement

- 1.1 The Parliamentary Under Secretary of State, Baroness Vere of Norbiton, has made the following scrutiny statement in accordance with paragraph 14(4) of Schedule 8 to the European Union (Withdrawal) Act 2018:

“In accordance with the requirements of paragraph 14 of Schedule 8 to the European Union (Withdrawal) Act 2018, a draft of the Motor Vehicles (Driving Licences) (Amendment) Regulations 2022 was published on the gov.uk website on 19th October 2021 and a Written Ministerial Statement was tabled in the House of Commons on the same date. Copies of the draft instrument were also deposited in the libraries of both Houses of Parliament on 19th October 2021. The clerks to the European Scrutiny Committee, the Transport Select Committee and the House of Lords Secondary Legislation Scrutiny Committee were also notified of the publication of the draft of the Regulations.

The following recommendations and representations were received and responded to as follows:

- The Secondary Legislation Scrutiny Committee (SLSC) made no comment on the policy, but asked for information to be included in the Explanatory Memorandum about motorcycle categories and why the change to the A2 MTV applies only to that category. This information has been included in paragraphs 2.2 to 2.4.
- The SLSC also asked for information that is more reflective of the response to consultation to be included, especially around concerns to road safety on the new licence upgrade arrangements. It recommended that information about what was done to assess the perceived risks be included. This constructive feedback has been addressed in much fuller terms in paragraphs 7.4 to 7.8.”

2. Explanatory statements

- 2.1 The Parliamentary Under Secretary of State, Baroness Vere of Norbiton, has made the following statements in accordance with paragraph 15(3) of Schedule 8 to the European Union (Withdrawal) Act 2018:

Paragraph 15(3)(a): Law which is relevant to the amendment:

“Arrangements relating to licence upgrade entitlements and requirements relating to minimum engine sizes for the A2 motorcycle test are currently contained in the Motor Vehicles (Driving Licences) Regulations 1999 (S.I. 1999/2864) (the “1999 Regulations”). Relevant amendments to these Regulations were made by the Motor Vehicles (Driving Licences) (Amendment) Regulations 2012 (“the 2012 Regulations”) and the Motor Vehicles (Driving Licences) (Amendment) Regulations 2014 (“the 2014 Regulations”).

Amendments made by the 2012 Regulations implemented Directive 2006/126/EC (the “Third Driving Licence Directive”) and introduced new categories and sub-categories

of vehicles. The 2014 Regulations made further provision to implement the Third Driving Licence Directive and aligned UK driving licence equivalences with those permitted in the Directive as regards lorry and bus entitlements (driving licence categories C and D). Both the 2012 Regulations and the 2014 Regulations were made using powers in section 2(2) of the European Communities Act 1972, they therefore constitute EU-derived domestic legislation (which is retained EU law) within the meaning of the European Union (Withdrawal) Act 2018.”

2.2 Paragraph 15(3)(b): Effect of the amendment or revocation on retained EU law:

“The effect of the amendments on retained EU law, as set out in the 1999 Regulations, which are introduced by these Regulations is to implement domestic law changes which are similar to those originally required by Directive 2020/612/EC which had a transposition date of 1st November 2020, see further paragraph 6.1 above. Regulation 3 reduces the minimum engine size of motorcycles that candidates can bring to the A2 test from ‘395cc’ to ‘245cc’. Regulation 5 extends licence upgrade arrangements so that candidates passing their driving test using a vehicle with automatic transmission in sub-categories C1, D1, C1+E and D1+E and B+E also gain the equivalent manual entitlement, provided they have already passed a test in a vehicle with manual transmission in another category.”

3. Good reasons

3.1 The Parliamentary Under Secretary of State, Baroness Vere of Norbiton, has made the following statement in accordance with paragraph 15(2) of Schedule 8 to 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.

These provisions implement a sensible and pragmatic modernisation of the driving test, as well as relaxing regulations. They recognise changes in vehicle transmission technology, power, and use. Both industry and the public will benefit from the reduction in the MTV requirement for the size of motorcycles that can be used for the A2 motorcycle test and the simplification of licence acquisition requirements.

In relation to the MTV reduction, it will help riders who feel more comfortable on smaller and lighter motorcycles to take their A2 rider test, it also reflects the increasing popularity of smaller motorcycles which are ideal for urban commuting and for local delivery riders. In relation to licence upgrades, it will mean that drivers who passed a driving test for a car and trailer (B+E), medium sized lorry or mini-bus (categories C1 and D1), or for those vehicles with a trailer (categories C1+E and D1+E), using a vehicle with automatic transmission, also gain the manual entitlement for that vehicle, provided they passed a test using a vehicle with manual transmission in another category. This will save drivers from having to take additional tests where they have already demonstrated competence in use of a gear box.”