

**EXPLANATORY MEMORANDUM TO THE  
MOTOR VEHICLES (DRIVING LICENCES) (AMENDMENT) (No 2)  
REGULATIONS 2005**

**2005 No. 2717**

**AND THE**

**MOTOR CARS (DRIVING INSTRUCTION) (AMENDMENT) REGULATIONS  
2005**

**2005 No. 2716**

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

**2. Description**

2.1. The two sets of Regulations covered by this Explanatory Memorandum modernise the arrangements for taking driving tests and instructor qualifying tests by amending the Motor Vehicles (Driving Licences) Regulations 1999 and the Motor Cars (Driving Instruction) (Amendment) Regulations 2005 respectively.

2.2. The amendments to the Motor Vehicles (Driving Licences) Regulations 1999 also restore the driving licence requirements for pre-1997 holders of medium sized goods vehicles and minibuses with trailers to those applicable before that date.

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

3.1. None.

**4. Legislative Background**

4.1. The amendments to the Motor Vehicles (Driving Licences) Regulations 1999 are made under Part III of the Road Traffic Act 1988 (RTA 1988). Part III allows the Secretary of State to make regulations generally with respect to driving tests and driving licences. The Secretary of State is required to consult with such representative organisations as he thinks fit before making any regulations under Part III of the Act.

4.2. The bulk of the amendments made to the Motor Vehicles (Driving Licences) Regulations 1999 introduce policy changes which are described in the section headed 'Policy Background'.

4.3. In addition, the amendments concern the position before the implementation of the Second European Council Directive (91/439/EEC) on driving licences into UK legislation. Before implementation of that Directive, drivers who held a category C1+E (medium-sized goods vehicle-with-trailer) entitlement through having passed a category B (car) driving test were entitled to drive tractor/trailer combinations within the C1+E category with a combined maximum authorised mass not exceeding 8.25 tonnes. Drivers who held category D1+E (minibus with trailer) entitlement through having passed a category B (car) driving test could drive such combinations with no upper weight limit and no tractor / trailer weight ratio restriction.

4.4. The changes brought in by the implementation of the Second Directive in UK legislation on 1 January 1997 were not intended to alter the existing entitlements although there was an obligation on Member States to agree 'equivalences' between obsolete entitlements and harmonised categories. This agreement provides that those drivers who automatically attained restricted category C1+E or D1+E pre-1997, by passing a category B driving test, retain that entitlement until the expiration of their existing licences. The Motor Vehicles (Driving Licences) Regulations 1999 inadvertently failed to make the appropriate provision for this. The instrument amending these Regulations restores the agreed position for such drivers. Two significant stakeholders, the Freight Transport Association and the Road Haulage Association, were consulted in respect of this amendment and both expressed support for it.

4.5. The amendments to the Motor Cars (Driving Instruction) Regulations 2005 are made under Part V of the RTA 1988. This provides for a registration scheme for those giving paid instruction in the driving of a motor car. It allows the Secretary of State to make regulations generally in respect of examinations and tests for those applying to join the statutory scheme and have their name entered onto the Register of Approved Driving Instructors (ADI).

4.6. The Motor Cars (Driving Instruction) Regulations 2005 consolidated the Motor Cars (Driving Instruction) Regulations 1989 with amendments made by subsequent regulations and made further amendments. Some of the amendments made have since been seen to have unintended consequences and for which the amending instrument makes provision. These concern role play by the examiner during a test and hazard perception tests. With regard to role play, the amending instrument removes the unintended requirement that a motor car is fitted with L-plates when the examiner is playing the role of a qualified driver during a test. With regard to hazard perception tests, the Motor Cars (Driving Instruction) Regulations 2005 allowed the Registrar who compiles and maintains the ADI register to take into account such tests which are equivalent to those specified in those Regulations. The amending instrument ensures that these equivalent tests must be conducted by any person for the Secretary of State.

## **5. Extent**

5.1. Both instruments extend only to Great Britain.

## 6. European Convention on Human Rights

6.1. Not applicable.

## 7. Policy Background

7.1. The package of proposals for driving tests and driving instructors introduces measures to modernise the arrangements for practical driving tests taken by learner drivers and riders, and the tests taken by those seeking to qualify as approved driving instructors.

7.2. The proposals have three main objectives, which are to:

- improve road safety;
- provide better customer service;
- improve compliance and security.

7.3. Many of the proposals originated from customer surveys, workshops and customer satisfaction focus groups and were developed as part of the Driving Standards Agency's (DSA) continuing commitment to review and update its customer services in line with Government policies.

7.4. Last year DSA undertook a public consultation exercise seeking views on its proposals to modernise the arrangements for taking driving tests. Of the responses received to the consultation, many were from driver and rider training and instructor groups, with a number being received from the police, courts, MoD and special interest and lobby groups. The overriding majority of respondents welcomed all of the proposals. Ministers before the general election approved the implementation of the package with various small changes in the light of comments.

7.5. The intention was to implement the proposals as a single package but some of the measures are dependent on provisions within the Road Safety Bill.

7.6. Because of the loss of the original Road Safety Bill as a result of the general election, and the level of interest from the public, we felt it sensible to separate out those proposals not reliant on the Bill and progress them as soon as possible.

7.7. The main changes comprising the package of proposals for driving tests and driving instructors relate to:

- minimum notice periods;
- evidence of identity for driving test candidates;
- broadening the categories of driver that may supervise provisional licence holders.

### 7.7.1. Minimum notice periods

- 7.7.2. Practical driving test candidates have been required to give a minimum period of notice to cancel (or change) a driving test booking since 1963, and this period was set at 10 clear working days. This notice period is to allow the transfer of information between test booking offices and driving test centres. Changes made to the way in which tests are booked (in particular, the advent of internet booking) and the speeding up of information transfer have made the 10-day rule over-burdensome. It offers little flexibility for customers and means that test slots remain vacant that could be filled by another candidate. Driving theory tests, introduced much more recently, already have a three-day cancellation period. The instrument amending these Regulations reduces the period to three days also in relation to practical driving tests.
- 7.7.3. Motorcycle and vocational trainers may reserve tests slots without providing DSA with candidate details under the trainer booking facility (TBF). The Motor Vehicles (Driving Licences) Regulations 1999 introduced a requirement that TBF users must provide DSA with candidate details two clear working days before the day of the test. The instrument amending these Regulations reduces this period to one clear working day.
- 7.7.4. *Evidence of identity*
- 7.7.5. The Motor Vehicles (Driving Licences) Regulations 1999 offered driving test candidates who do not hold photographic driving licences the opportunity to present a number of different types of evidence to fulfil the photographic identity check at test. The list of alternative forms in the Regulations was not exhaustive and in practice this has led to an inconsistent approach at test centres and confusion among candidates. Customers are currently also able to support a paper licence with an out-of-date passport. The instrument amending these Regulations removes the alternative forms so that, except in relation to the Armed Forces, where a candidate does not hold a photographic driving licence, only a valid passport will be acceptable.
- 7.7.6. *Broadening the categories of driver who can supervise learner drivers*
- 7.7.7. The Motor Vehicles (Driving Licences) Regulations 1999 required the holders of provisional licences in categories C (goods vehicle), C+E (articulated goods vehicle or goods vehicle-with-trailer), D (bus) and D+E (bus-with-trailer) to be supervised by a person who has held the corresponding licence for at least three years. This is restrictive. The appropriate experience requirement can be fulfilled in a less demanding way without compromising road safety. The instrument amending these regulations allows the supervisor to hold a specified combination of licences for a minimum of three years in total.

## **8. Impact**

8.1. A Regulatory Impact Assessment (RIA) for the package of proposals for the driving test and driving instructor changes was prepared for the consultation. This was subsequently finalised and signed by the then-Minister. It is attached to this paper at *Annex A*. No significant financial implications have been identified for members of the public or the public sector. There is no RIA for the pre-1997 licence entitlement change as it has no impact on business, charities or voluntary bodies.

## **9. Contact**

### **9.1. DSA for driving tests and instructor qualifying tests**

Colin Maddock Department for Transport (Driving Standards Agency). Tel: (0115) 901 5913, email [colin.maddock@dsa.gsi.gov.uk](mailto:colin.maddock@dsa.gsi.gov.uk)

### **9.2. DVLA for pre-1997 licences**

Simon Andrew at the Department for Transport (DVLA) Tel: (01792) 765237 or email: [simon.andrews3@dvla.gsi.gov.uk](mailto:simon.andrews3@dvla.gsi.gov.uk)

## **REGULATORY IMPACT ASSESSMENT**

### **BETTER QUALITY SERVICE REVIEW – MODERNISING THE ARRANGEMENTS FOR TAKING DRIVING TESTS - The Motor Vehicles (Driving Licences) Regulations**

### **1999 [SI No. 2864] (as amended) and The Motor Cars (Driving Instruction)**

### **Regulations 1989 [SI No. 2057] (as amended).**

#### **Objective**

1. Earlier this year the Driving Standards Agency (DSA) issued a Consultation Paper<sup>1</sup> seeking views on a number of proposed changes to modernise the arrangements for theory and practical tests taken by drivers and instructors.
2. The proposals were developed as part of the Agency's continuing commitment to review and update its customer services in line with Government thinking<sup>2</sup>. Responses provided via customer satisfaction surveys, workshops and focus groups identified enhancements to Agency services that would be welcomed. In developing these proposals account was taken of the Agency's commitment to ensure the integrity of the driving test system.
3. The proposals would significantly improve customer service, reduce administration and compliance costs and protect the integrity of the driving test and licensing systems. In summary, the proposals would achieve this by:
  - introducing a Trainer Booking Facility for instructors to reserve appointments for car theory tests
  - allowing candidates to re-arrange a practical test appointment without a loss of fee
  - reducing from 10 to 3 clear Working Days the minimum period of notice which candidates must give to cancel or
  - counting Saturday as a Working Day
    - (a) for the purposes of the minimum wait before unsuccessful theory or practical test candidates may re-attempt the test
    - (b) for the purposes of calculating the minimum period of notice for a candidate to cancel or re-arrange a theory or practical test without fee forfeiture.
    - (c) for the purposes of the Notification Period for supplying candidate/vehicle details in the Trainer Booking Facility
  - reducing to one clear Working Day the minimum Notification Period for supplying candidate/vehicle details for tests within the Trainer Booking Facility

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<sup>1</sup> *Modernising the arrangements for taking driving tests* – DSA June 2004

<sup>2</sup> *Modernising Government* - Cabinet Office 1999

- making more rigorous, whilst simplifying, the photographic ID requirement at theory and practical tests
- improve the security arrangements for persons acting as translators at theory tests
- enhancing the safety requirements for vehicles used for car-plus-trailer, lorry and bus tests
- introduce an express provision covering the presence of a member of DSA's quality control team supervising an examiner conducting an ADI practical qualifying test or a check-test
- allowing more flexibility in the driving experience requirement for those accompanying learners driving lorries and buses allow persons with a physical disability to supervise learners driving lorries or buses and vehicle-trailer combinations where this does not present any road safety risk
- allowing theory test invigilators and driving examiners to seize licences where fraud is suspected
- updating the candidate's signatory requirements on the documentation at the practical test

4. Those principally affected by the proposed changes are individual candidates preparing to undertake their driving test, or any of the qualifying tests for the statutory and non-statutory registration schemes operated by DSA. The proposals are also likely to affect to varying degrees: employers and those engaged in the driver and rider instruction industry, and those persons offering a translation service to candidates wishing to take a theory test in a language that is not currently provided for as a voice-over to the on-screen test.

### **Background and Risk Assessment**

**5. The overall purpose of the driving test is to check that a learner driver has reached a satisfactory level of competence before being granted a full driving licence for the appropriate category of vehicle and be permitted to drive unaccompanied. The test also helps set the training agenda for learners. The test for all categories of learner drivers is conducted in 2 parts:**

- **The first part comprises a theoretical test of knowledge and understanding of the driving syllabus undertaken as a multiple-choice question test, followed by an assessment of hazard perception skills using video clips. This part is undertaken as a computer-based assessment.**
- **The second part comprises a practical test of skills and behaviour using a vehicle representative of the category of licence being sought – commonly known as *Minimum Test Vehicle* standards (MTVs).**

6. The overall purpose of the tests set for driving instructors is to ensure that applicants have, and subsequently maintain, a satisfactory level of competence relating to offering paid instruction concerning the type of vehicle for which they are registered. The qualifying examination for those seeking to register as a driving instructor involves 3 parts:

- The first part comprises a theoretical test of knowledge and understanding of the driving and instruction syllabus undertaken as a multiple-choice question test, followed by a higher-level assessment of hazard perception skills using video clips. This part is undertaken as a computer-based assessment.

- The second part comprises a practical test of driving ability assessed to a higher level than expected for ordinary driving licence acquisition.
- The third part comprises a practical test of instructional ability, requiring the candidate to teach an examiner who is role-playing a trainee at various levels of competence.

7. The nature and conduct of the Driving Test, and vehicles used for the driving test for learner drivers and riders is set by European Community legislation<sup>3</sup>, transposed into UK legislation in The Motor Vehicles (Driving Licences) Regulations 1999 [SI No. 2864] (as amended). The nature and conduct of motorcycle instruction is set in the same domestic legislation. Motor Car driving instruction is set in The Motor Cars (Driving Instruction) Regulations 1989 [SI No. 2057] (as amended). Instruction given and received by learner bus and lorry drivers is not currently subject to any regulation.

**8. The Government's *Road Safety Strategy*<sup>4</sup> committed DSA to contribute to improvements in road safety through establishing, developing and disseminating high standards and best practice in driving and riding on the road: before people start to drive, as they learn and after they pass their test. Each year around 3,500 people are killed on Britain's roads and 40,000 are seriously injured. In total, there are over 300,000 road casualties. This causes enormous human suffering and is a serious economic burden - the direct cost of road traffic collisions involving deaths or injuries is thought to be in the region of £3 billion a year.**

9. The administrative arrangements relating to the booking and taking of tests support the road safety objective of the driving test system, and prevent it being undermined by irregularities such as candidate impersonation. The arrangements also help the orderly delivery of services in a customer-focused and cost-effective manner.

10. Recent court cases have shown that the driving test system is vulnerable to attack from those seeking to undertake driving licence and wider identity fraud. Such fraud undermines the road safety purpose of the driving licence system. Wider identity fraud risks undermine the integrity of other public administration, public safety, and the administration of justice more generally.

## Options

### 11. Two options have been considered:

#### Option 1 – Take no action

**12. This option contradicts the Government's commitment to meeting its *Road Safety Strategy*<sup>5</sup> targets, under which DSA is obligated to contribute to improvements in road safety through establishing, developing and disseminating high standards and best practice in driving and riding on the road. It also contradicts the Agency's commitment to review and modernise its services to customers, ensuring value for money, effectiveness and making compliance**

<sup>3</sup> Council Directive 91/439.EEC

<sup>4</sup> *Tomorrow's Roads – Safer for Everyone*. DETR March 2000. Product code 99ARSE0998

<sup>5</sup> *Tomorrow's Roads – Safer for Everyone*. DETR March 2000. Product code 99ARSE0998



easier for those who are observing the rules, whilst ensuring effective arrangements are in place to avoid breaches.

## **Option 2 – Implement the Proposals**

13. This option satisfies the Government's commitment to meeting its *Road Safety Strategy* targets. The proposals draw on findings from customer surveys and focus groups, in line with the Government's commitment given in the *Modernising Government White Paper*<sup>6</sup> to deliver public services around the needs of citizens. Some of these proposals were specially identified by customers as enhancements to Agency services that they would welcome. The proposals also respond to concerns about loopholes that enable driving licence and wider identity fraud.<sup>7</sup> This option has therefore been identified as the sensible way forward.

## **Option 2 - THE PROPOSALS**

### **(i) introduce a Trainer Booking Facility for instructors to reserve appointments for car theory tests**

#### **Existing situation**

14. Currently there is a Trainer Booking Facility (TBF) for theory and practical tests for instructors who wish to reserve and pay for appointments for tests for learner lorry and bus drivers and learner motorcyclists before they know the name of the trainee who will use the appointment. DSA introduced TBF in the mid-1990s in recognition of the way training courses were organised for those types of trainee.

#### **Benefits and costs**

15. Some organisations involved in providing car driving instruction have argued that they could offer improved service to their customers if test appointments could be reserved, with driving schools having the flexibility to nominate the trainee shortly before the test date.

16. There might be initial costs for businesses that choose to use the facility as they put in place processes to enable them to do so, but overall DSA would expect this service development to enable users to reduce costs. In response to the consultation no costs were identified for those who would use the facility. Costs associated with the implementation of this proposal would be one-off and not of a magnitude to affect fee levels. The Agency anticipates costs of around £100,000 to introduce the change. No environmental or social issues have been identified as likely to arise from this proposal.

### **(ii) reduce from 10 to 3 clear Working Days the minimum period of notice which candidates must give to cancel or re-arrange a practical test appointment without a loss of fee**

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<sup>6</sup> *Modernising Government*. Cabinet Office. 1999. The Stationery Office £9:00 [www.cabinet-office.gov.uk/regulation/Consultation/Introduction.htm](http://www.cabinet-office.gov.uk/regulation/Consultation/Introduction.htm)

<sup>7</sup> *Research into Unlicensed Driving*. Department for Transport November 2003. ISSN 1468-9138

## **Existing situation**

17. The driving test regulations specify a 10 clear Working Day period of notice which candidates must give to cancel or re-arrange a practical test appointment without a loss of fee. The regulations specify a 3 clear Working Day period of notice which candidates must give to cancel or re-arrange a theory test appointment without a loss of fee.

18. The 10-day cancellation period for practical tests was introduced at a time when most test bookings were dealt with by post (both the application and notification of appointment) and it would not have been possible to have dealt with another postal application from a replacement candidate within the 10-day period.

19. In 2002-2003, DSA booked 1,412,586 car test appointments. Approximately 565,230 of these (40%) were cancelled or changed up to 10 days before the date of the test. This is a major activity for DSA and is an inefficient use of resources, particularly in the call centres.

## **Benefits and costs**

20. With developments in test booking arrangements, a shorter minimum cancellation period is now a practicable administrative proposition, and means DSA could offer customers an improved service. Over the last decade, the driving test booking system has moved from being a postal/paper application system. 97% of all practical tests are now booked by telephone, supported by payment by credit/debit card or via the Internet. These booking processes have business advantages for DSA as it enables the Agency to fill - even at relatively short notice - many of the test slots that would otherwise be left vacant by cancellations.

21. The proposed change will benefit candidates by allowing them to cancel or re-arrange their tests up to three days before the date of test without loss of fee. It should also benefit DSA by encouraging appointments to be released within a timeframe where they can be recycled, enabling a more efficient use of examiner resources. There may also be a modest road safety benefit, since candidates who have not reached test standard will have greater opportunity to delay their test until they are better prepared without losing the test fee. DSA would make minor savings from reduced numbers of compensation payments under the matching alteration to three days as the period within which DSA would consider compensation payments when the Agency cancelled a test, though these amounts would be small as DSA cancels few tests 3 -10 days before a test date.

22. A shorter minimum cancellation period without fee forfeiture is likely to increase the number of requests for test cancellations and rearrangements. DSA estimates, however, that the costs of introducing these proposals would be minimal compared with the overall costs of administering the large volumes of appointment changes.

23. DSA has not identified any direct costs for candidates or the training industry from this change. There would be minor reductions in compensation payments received from DSA as a result of the matching alteration to three days as the period within which DSA would consider compensation payments when the Agency cancelled a test. This would be on an individual basis and usually involves refund of test fee and cost of driving

lesson/vehicle hire of around £85. No environmental or social issues have been identified as likely to arise from this proposal.

**(iii) count Saturday as a Working Day**

**(a) for the purposes of the minimum wait before unsuccessful theory or practical test candidates may re-attempt the test**

**Existing situation**

24. Unsuccessful candidates for both theory and practical tests must wait a minimum number of clear Working Days before attempting another test. This rule is to discourage candidates from attempting the test before they are thoroughly prepared, and to give unsuccessful candidates a period for retraining before reattempting a test.

**Benefits and costs**

25. The definition of a Working Day in the regulations has not been amended to reflect changes in practices in the driver training industry, and in DSA's service arrangements. In particular, Working Day does not include a Saturday, though DSA has conducted practical tests on Saturdays since 1992, and theory tests have been available on Saturdays since their introduction in 1996.

26. Training industry representatives, particularly those concerned with training lorry and bus drivers, have forwarded the view that Saturday is a Working Day in their sectors, and that DSA should accept candidates who take an unsuccessful test on either a Thursday or Friday have adequate opportunity to seek additional training on Saturday. Such candidates should therefore be able to undergo a further test on Tuesday or Wednesday.

27. Treating Saturday as a Working Day would benefit individual candidates and the training industry because it would allow candidates to reattempt their test earlier than otherwise. It could also have business benefits for DSA, allowing better use of the weekly test schedules for practical lorry and bus driving tests. Currently, candidates who fail a test on a Friday or a Saturday cannot reattempt a test before Thursday or Friday the following week. Because of the way the training industry for those sectors is structured around weekly training courses, these days have traditionally been the days of greatest demand for practical tests anyway.

28. Altering the definition of Working Day would involve systems changes for the theory and practical test services, and therefore a one-off cost for the Agency of around £12,000. This figure is not of a magnitude to affect test fee levels. DSA has not identified any costs for individual candidates or the training industry that would arise from this change. No environmental or social issues have been identified as likely to arise from this proposal.

**(b) for the purposes of calculating the minimum period of notice for a candidate to cancel or re-arrange a theory or practical test without fee forfeiture**

## **Existing situation**

29. Candidates are currently allowed to cancel or re-arrange a theory test by giving not less than three clear Working Days notice before the day on which the appointment is made without losing the fee. For practical tests, 10 clear Working Days must currently be given (though as explained in proposal (ii) above, this could be reduced to three days). Currently, Saturday is not defined as a Working Day.

## **Benefits and Costs**

30. The same benefits apply as for paragraphs 29 and 32 above. Customers would also benefit from, in effect, a reduced period within which they could cancel without fee forfeiture.

31. Altering the definition of Working Day would involve systems changes for the theory and practical test services, as given in paragraph 32 above. DSA has not identified any costs for individual candidates or the training industry that would arise from this change. No environmental or social issues have been identified as likely to arise from this proposal.

**(c) for the purposes of the Notification Period for supplying candidate/vehicle details in the Trainer Booking Facility (TBF)**

## **Existing situation**

32. Trainers using TBF must confirm to DSA details of candidates for theory tests a minimum 3 clear working days before the date of test. Candidate and vehicle details for practical tests must be received a minimum 1½ working days before the date of test. These periods do not include a Saturday, Sunday or Bank Holiday.

## **Benefits and Costs**

33. The same benefits apply as for paragraphs 29 and 32 above. Trainers and candidates would benefit from the greater flexibility offered by including Saturday as a Working Day.

34. Altering the definition of Working Day would involve systems changes for the theory and practical test services, as given in paragraph 32 above. DSA has not identified any costs for individual candidates or the training industry that would arise from this change. No environmental or social issues have been identified as likely to arise from this proposal.

**(iv) reduce to one clear Working Day the minimum Notification Period for supplying candidate/vehicle details for tests within the Trainer Booking Facility**

**Existing situation**

35. The Trainer Booking Facility allows trainers to reserve and pay for test appointments up to 10 weeks before the date of test without providing candidate or vehicle details at the time of booking. Instructors then have 3 clear working days before confirming candidate details in the case of theory tests, and 1½ clear Working Days before confirming candidate and vehicle details in the case of practical tests.

36. During 2002/03 the Agency conducted 95,742 practical motorcycling tests and 81,424 practical lorry and bus driving tests, a large proportion of which were booked via the Trainer Booking Facility. During the same period, some 87,557 motorcycle and 47,444 lorry and bus theory tests were taken. Approximately 18% of motorcycle and 11% of lorry and bus theory tests were booked via the Trainer Booking Facility.

**Benefits and Costs**

37. When TBF was introduced, DSA promised to keep the minimum Notification Period under review. Trainers have asked for the greater flexibility offered by a reduction in the notification period. Improvements in DSA booking systems have allowed this to be considered. Since October 2000, DSA has been trialling a shorter notification period for supplying candidate/vehicle details for practical test appointments – 16:00 hours on the day which is one clear working day before the day of test rather than 12:00 on that day. The trial has been well received by the training industry. It is, therefore, proposed to adopt this as the standard Notification Period for supplying candidate/vehicle details.

38. Further, the 3 day Notification Period for TBF for the theory test was set when this test was delivered as a pen and paper test and booking was mainly by postal application. The theory test is now a computer-based assessment, and 95% of appointments are booked by telephone/internet. This creates an environment in which the TBF Notification Period might be shortened. It is proposed to shorten the Notification Period for providing candidate details for theory tests and adopt the same the same Notification Period as for providing candidate/vehicle details for practical tests.

**Benefits and Costs**

39. Trainers and candidates would benefit from the greater flexibility offered by a shorter minimum Notification Period. No public sector savings have been identified.

40. Altering the definition of the Notification Period would involve systems changes for the theory and practical test services, and therefore one-off costs for the Agency. These costs are incorporated in the £12,000 at paragraph 32 above. DSA has not identified any costs for individual candidates or the training industry that would arise from this change. No environmental or social issues have been identified as likely to arise from this proposal.

**(v) make more rigorous, whilst simplifying, the photographic ID requirement at theory and practical tests by candidates presenting a Photocard Driving Licence**

## **Existing situation**

41. From 1 March 1997 all driving test candidates have been required to produce both photographic evidence of identity and their signed driving licence before taking the test. Since the issue of Photo-card Driving Licences to first provisional applicants in autumn 1998, candidates have been encouraged to use this document to fulfil both purposes.

## **Benefits and Costs**

42. DSA is keen to reduce the opportunity for candidate impersonation at both theory and practical test and considers that the Photo-card Driving Licence has an important role to play.

43. Any reduction in the number of candidates fraudulently obtaining a driving licence should have positive road safety benefits for all road users. Any reduction in identity fraud should bring benefits for the integrity of other public administration, public safety, and the administration of justice more generally.

44. The principal cost of this proposal would fall on learners holding paper driving licences who would need to upgrade to a Photo-card Driving Licence before taking a theory or practical test. Most candidates already hold a photo-licence – practically all theory test candidates and 80% of practical test candidates. Candidates who need to exchange an old style paper licence for a photo-licence would be liable to a fee of £9 payable to DVLA. However, in recognition of the cost that would be incurred by forcing a licence exchange, DSA will accept a paper licence accompanied by a valid passport as an acceptable alternative to a Photo-card Driving Licence. This seems proportionate to the improved simplicity of the check and the better security it offers.

45. This proposal would generate minor costs for DSA promoting/advertising the change in the region of £2,000 - £5,000 (one-off publicity costs to cover all of the changes). No environmental or social issues have been identified as likely to arise from this proposal.

## **(vi) improve the security arrangements for persons acting as translators at theory tests**

## **Existing situation**

46. DSA currently administers the theory test translator scheme at no cost to the participating translators, who are required to re-register every two years.

## **Benefits and Costs**

47. DSA is keen to reduce the opportunity for people to acquire driving licences fraudulently. Better regulation of those persons acting as an authorised translator is seen as having an important role to play in maintaining the integrity of the test. Experience shows that the current arrangements have weaknesses that can be abused whereby translators who are known to the candidate could be tempted to offer advice on answering theory test questions during the translation.

48. Any reduction in the number of candidates fraudulently obtaining a driving licence will have positive road safety benefits for all road users, and reduce the opportunity for identity fraud for public and commercial business.

49. Participating translators and their potential customers would benefit from DSA making details of their translation services publicly available. Annual renewal of translator authorisation would also enable the Agency to ensure that details kept up to date in accordance with the Data Protection Act.

50. DSA does not propose to introduce any charges on translators or their customers for the public sector costs administering the translator facility. Translators seeking re-registration would incur trivial compliance costs, needing to supply additional photographs every 12 months.

51. DSA would incur modest extra administration costs, including the costs of promoting this change, but these would be one-off costs to cover all of the changes (see paragraph 45 above). No environmental or social issues have been identified as likely to arise from this proposal.

#### **(vii) enhance the safety requirements for vehicles used for car-plus-trailer, lorry and bus tests**

##### **Existing situation**

52. There are already rules in place concerning the specification for vehicles that may be used for practical driving tests. These rules generally focus on ensuring the test vehicle is reasonably representative of the type of vehicle that the fully qualified driver will use, rather than for the safety of examiners now proposed. The proposals are to introduce enhanced seat, seatbelt and external rear view mirror requirements for use by the examiner conducting lorry and bus tests and car plus trailer tests.

53. DSA has a duty of care to its examiner staff under Health and Safety legislation. During the financial year 2002/03, six examiners sustained injury whilst conducting PCV tests and four whilst conducting LGV tests in vehicles which did not have a seatbelt available for examiner use.

##### **Benefits and Costs**

54. Improved health and safety for driving examiners should lead to reduced sick absence. This would reduce costs for the testing service, and lead to improved service levels. These changes should also produce benefits to trainers, who spend more time in the vehicle than examiners.

55. The costs of the higher standards are considered proportionate to the potential benefits, particularly as many test vehicles already satisfy the proposed requirements, and the costs for those that do not would be one-off costs spread over the life of the training vehicle – typically five years for lorries and buses.

56. Many vehicles used by the training industry already have three point seatbelts fitted. A survey of 1384 LGV tests conducted in February 2003, found that 45% (625) of

vehicles presented were already fitted with a suitable seatbelt for the examiner. Of 229 PCV tests conducted, 52% (119) vehicles had a suitable seatbelt for use by the examiner.

57. Lorries that do not have seatbelts fitted are likely to have in place the anchor points with which to attach seatbelt restraints. The cost of supplying a seatbelt is anticipated to be in the region of £150 to £250 (+VAT and fitting) per seatbelt depending on the type of vehicle. The cost of fitting seatbelts for use by the examiner, and any person supervising the examiner, whilst conducting driving tests in buses and coaches is considered to be around twice as much as for lorries. This is because many buses do not have the extra bracing bars necessary to allow seatbelts to be fitted. Additional bracing must be fitted before seatbelts can be fitted.

58. The same survey found that in 62% (856) of LGV tests, the standard fitted mirrors did not afford the examiner good all-round vehicle observation. 31% (71) of PCV tests were conducted in vehicles which did not give the examiner good all-round observation. The cost of supplying and fitting external mirrors for use by the examiner is estimated to be in the region of £250+VAT per vehicle.

59. In each of the last two years DSA has, on average, conducted 270 category B+E tests per year. Many of these candidates presenting for test do so in their own vehicles that are already required to have seatbelts available for use by the front seat passenger. There would, however, be an additional cost in supplying and fitting additional external rear view mirrors for use by the examiner. This provision is estimated to cost £50 per vehicle to buy and fit. It might, however, be possible to arrange to hire easily detachable mirrors for the duration of the test.

60. The seats used by examiners conducting large goods vehicle driving tests need to have adjustable suspension so that they offer a safe and comfortable ride. With modern lorries, this is usually the case. However, some of the older vehicles used for lorry driving tests have old-fashioned seating – either rigid seats with no adjustment other than forward or backward, or seats that are too springy to meet a modern standard.

63. The problem with poor seating should resolve itself as more modern vehicles are increasingly used for test as a consequence of the new EU standards for test vehicles which must be met by July 2007 at the latest. DSA proposes to coincide the requirement for updated seating with these new standards, thereby allowing a period of time for vehicles to be upgraded. No environmental or social issues have been identified as likely to arise from this proposal.

**(viii) introduce an express provision covering the presence of a member of DSA's quality control team supervising an examiner conducting an ADI practical qualifying test or a practical check-test**

### **Existing situation**

64. Currently, driving examiners who conduct ADI practical tests may be supervised by a member of DSA's quality control team only with the consent of the candidate.



## **Benefits and Costs**

65. Having a cost-effective arrangement regarding standards supervision helps the Agency's initiative to train more staff to be available to conduct ADI practical tests, thus improving service levels. Unnecessary impediments to standards supervision of examiner staff are undesirable, and tend to increase the costs of undertaking supervision, which in turn needs to be factored into the ADI fee arrangements.

66. The proposed change would enable the Agency to plan better its programme of supervision, with the potential for cost savings. A better organised supervision regime would help ensure that ADI practical tests were conducted in a uniform and fair manner, with a follow through to the standard of tuition being offered to the public paying for driving lessons.

67. DSA would incur minor costs promoting this change, though these should be offset by higher productivity of the senior examiners undertaking examiner-supervision. DSA does not envisage any implications for ADI fees.

78. The Agency has not identified any compliance costs requiring candidates to allow a senior officer to observe the test will therefore not result in additional compliance costs for the industry. No environmental or social issues have been identified as likely to arise from this proposal

## **(ix) allow more flexibility in the driving experience requirement for those accompanying learners driving lorries and buses**

### **Existing situation**

79. Currently, a person accompanying a learner driving a LGV or PCV must have held a licence for three years in the same category of vehicle for which the learner is seeking a full licence.

### **Benefits and Costs**

80. Companies engaged in training lorry and bus drivers have suggested that this is unnecessarily burdensome, and have asked if experience driving one category of large vehicle could count towards the experience requirement for another category of large vehicle.

81. The proposed change could enable commercial training companies, and the training divisions of road operators, to make broader use of their staff with driver training experience.

82. DSA has not identified any unfavourable cost implications for trainers or DSA. Provided the experience requirements were sensibly formulated, it would appear that this relaxation could be allowed without affecting road safety. No environmental or social issues have been identified as likely to arise from this proposal

**(x) allow persons with a physical disability to supervise learners driving lorries or buses and vehicle-trailer combinations where this does not present any road safety risk**

**Existing situation**

83. Currently, the supervising driver rule often prevents physically disabled persons from being supervising persons for learners driving lorries, buses or vehicle-trailer combinations. This is because, under the supervising driver rule, the supervisor is required to hold a full licence in the same category as the licence being sought. A physically disabled person may hold a driving licence restricted to vehicles with suitable adaptations.

84. The supervising driver rule is different for cars – where there is a special provision in the relevant regulations that means physically disabled persons can hold a restricted car driving licence and still be a supervising driver, provided they can take control of the steering and braking functions of the vehicle in an emergency.

**Benefits and Costs**

85. Under the Disability Discrimination Act, DSA has been reviewing whether there are any unnecessary restrictions with the operation of the supervising driver rule as it relates to driving large vehicles and vehicle combinations that prevent persons with disabilities from fulfilling their potential and gaining employment, provided that rules needed to protect road safety are maintained.

86. The Agency recognises that the characteristics of a driver's position in a lorry or bus are often substantially different from those in a car. But, there should be no reason why a physically disabled person cannot act in a supervisory capacity, provided they were able to take control of the steering and braking functions of the vehicle.

87. DSA has not identified any costs for trainers, learners or examining authorities. No environmental or social issues have been identified as likely to arise from this proposal

**(xi) allow theory test invigilators and driving examiners to seize driving licences where fraud is suspected**

**Existing situation**

88. There is limited administrative opportunity to check the authenticity of a driving licence. One occasion is when a candidate presents a licence before taking a theory test or practical driving test. Candidates are required to present licences to avoid candidate impersonation and to check that the licence holder has the correct driving entitlement. Since November 2003 these basic security checks have been enhanced and the Photo-card licences are now scanned by a UV lamp to check that built-in security features are present.

89. Currently, under section 176 of the Road Traffic Act 1988, only a police officer can seize a driving licence if he has reasonable cause to believe that an offence has been committed. Where fraud is identified at a theory or practical test centre, the police have to be called for the licence to be withheld. DSA's ability to retain a licence which has

failed the UV security check is limited to offering to return the licence to DVLA on customer service grounds. Customers can refuse this and be well gone before the Police arrive.

### **Benefits and Costs**

90. Most driving licences presented by candidates are of the Photo-card style. UV checks conducted on Photo-card licences at both theory and practical tests enable the Agency to identify fraudulent licences.

91. Recent intelligence from the police has shown that counterfeiters are becoming more sophisticated and are producing realistic fake licences. Driving licence fraud is often associated with other forms of organised crime since a licence can provide a route to establishing an identity and obtaining other official documents. Early identification and seizure of suspect licences will reduce the opportunity for the licence to be used to perpetrate other forms of identity fraud or criminal activity.

92. Giving invigilators and driving examiners the power to seize fraudulent licences would help relieve burdens on the police. Any reduction in the number of candidates fraudulently obtaining a driving licence should have positive road safety benefits for all road users. Prevention of other identity fraud involving a suspect licence would also have beneficial effects.

93. DSA has not identified any costs to legitimate candidates, or the Agency, arising from this proposal. No environmental or social issues have been identified as likely to arise from this proposal

### **(xii) update the candidate's signatory requirements on the documentation at the practical test**

#### **Existing situation**

94. The driving test regulations require candidates to confirm they meet the residency requirement before submitting themselves for theory or practical tests. Currently this is administered by guidance offered to theory and practical test candidates, and requiring practical test candidates to sign a residency declaration on a Practical Driving Test Pass Certificate.

### **Benefits and Costs**

95. Some 600 applications for a full licence are rejected annually by DVLA because candidates have not properly completed the residence declaration. This is wasteful in terms of administrative efficiency, and causes frustration to candidates.

96. The Driving Test Report Form used for a practical test already contains an insurance cover declaration. Candidates are required to sign this form before the start of a practical test. Placing the residence declaration on the Driving Test Report Form would be a simple procedural improvement that would ensure that the residence declaration completed in all cases.

97. DVLA will accrue small savings in the cost of administering those applications for full licence entitlement which are not accompanied by a properly completed residence declaration. There would also be compliance cost savings for the frustrated licence applicants.

98. Also, there is the potential for road safety benefits from the enhanced anti-fraud measures offered by the linking of test results to the original booking.

99. The residence declaration would be transferred from the Test Pass certificate to the Test Report Form when documents were being reprinted, so the costs would be minimal. There would be no test fee impact. No environmental or social issues have been identified as likely to arise from this proposal.

### **Equity and Fairness**

100. In general the proposals would significantly improve customer service, reduce administration and compliance costs and protect the integrity of the driving test and licensing systems. The proposed measures should have equal effect across the driver and rider training industries and those individuals undertaking their driving tests.

### **Consultation with Small Business**

101. Once qualified, the majority of car driving instructors and motorcycle trainers operate as self-employed, one-person businesses. Lorry and bus driving instructors tend to work for large vehicle driving schools - most of which are small businesses.

102. The Consultation Paper was developed in response to findings from customer satisfaction surveys, customer workshops and focus groups held between DSA and driver and rider training groups. Many of the proposals within the Paper were specifically identified by customers as enhancements to Agency services that they would welcome. The proposals also respond to customer concerns about loopholes that enable driving licence and wider identity fraud.<sup>8</sup>

103. Over 4,700 copies of the Consultation Paper were issued to driver and rider training associations, trade associations, individuals, special interest groups and those associated with the police and judiciary system. The Paper was posted on the Agency's web-site and publicised in the DSA newsletter *Despatch* with a circulation of some 60,000 driving instructors. Articles concerning the proposals were also published in trade association newsletters.

104. 129 responses were received of which many were from representative organisations. In the main the responses were from driver and rider training and instructor associations, with a small number being received from Police, MOD, Courts and special interest and lobby groups. The proposals were positively received with the majority of respondents being in favour of implementation (overall 87% favoured the proposals).

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<sup>8</sup> Research into unlicensed driving – Department for Transport November 2003.

105. Many respondents thought that the enhancements to the administrative systems would standardise procedures; that the upgrading of vehicle equipment was essential to assure driving examiner and instructor safety; and that the measures proposed to combat driving licence fraud were long overdue.

106. The minority that opposed the measures commented that the standardisation of the administrative systems could favour the larger driving schools at the expense of smaller schools or individuals and that there would be compliance costs for trainers to upgrade their vehicles to assure driving examiner safety. Comments were also made that translators should not be used for driving tests as candidates should be able to speak English.

107. The Agency considered the feedback received and noted that the majority of respondents were in favour of the proposals. In adopting the proposals steps would be taken to ensure that procedures were in place to prevent monopolisation of the administrative systems by large training concerns at the expense of smaller ones.

108. The Agency considers the safety of its staff to be of paramount importance and needs to comply with the Health and Safety at Work Act 1974, to ensure that reasonable steps are taken to eliminate or control any identified hazards. The Agency therefore considers the one-off costs associated with the upgrading of vehicles to provide seatbelts and external mirrors for use by driving examiners to be reasonable requests.

109. The Agency must also comply with European legislation<sup>9</sup> to protect its workforce from the effect of Whole Body Vibration (WBV). Requiring improved seat suspension for driving examiners conducting tests on buses and lorries is therefore essential for the Agency to comply with this Directive. In recognition of the costs associated with this requirement and that the WBV legislation does not come into effect until 2007, the Agency will allow the industry until July 2007 to upgrade their vehicles.

110. In terms of equity and fairness the Agency considers that it is reasonable to allow the candidate to take a driving test using the services of an authorised translator. Steps are being put into place by the Agency to ensure the integrity of the test where translators are used.

111. Overall, there will be some costs for those organisations that need to update their test vehicles to assure examiner safety i.e. fitting of seatbelts, external mirrors and seat suspension, but, the Agency does not consider that the introduction of these changes will adversely impact on small businesses, individual instructors or those seeking to enter the driving instruction industry. In the main, the proposals enhance systems that are already in place to improve services to customers.

### **Competition Assessment**

112. Costs associated with the requirements of the Directive will apply equally to all affected businesses in the driver and rider training industries. The competition filter undertaken as part of the Competition Assessment suggests that the proposed regulation is unlikely to have an impact on competition in these industries.

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<sup>9</sup> The European Physical Agents (Vibration) Directive 2002/44/EC

## **Enforcement and Sanctions**

113. The Police and Traffic Commissioners will carry out enforcement as they currently do for road traffic offences relating to buses and lorries. The Police will also carry out enforcement as they currently do for road traffic offences relating to all other modes of road transport. DSA in conjunction with the Police, Courts and DVLA will be responsible for the seizure of suspected fraudulent driving licences when presented at driving tests. Sanctions will be imposed in accordance with those laid down in the Road Traffic Act 1988.

## **Consultation**

114. A wide range of bodies were regularly consulted to develop the proposals. These included:

- A number of private LGV and PCV companies
- A number of individual Approved Driving Instructors (ADIs)
- A number of individual motorcycle instructors
- A number of Road Safety Officers
- A number of Road Safety organisations – BRAKE, ROSPA, ROSCO
- ADI organisations.: AA, BSM, DIA, IAM, ADI Federation
- Ambulance Service Association
- Association of Chief Police Officers (ACPO)
- Fire Services Training
- Skills for Logistics Council
- GoSkills
- Community Transport Association.
- Freight Transport Association
- Confederation of Passenger Transport
- Road Haulage Association.
- Road Haulage Association Training Providers
- 900 LGV Instructors on the DSA voluntary LGV register
- 90 Theory Test Translators on the DSA register
- 1,700 LGV/PCV/MC instructors that make use of the DSA Trainer Booker facility
- 700 DSA registered Motorcycle instructors
- 200 ORDIT (Official Register of Driving Instructor Training) training organisations
- Small Business Service
- Recruitment and Employment Confederation
- Ministry of Defence Logistics
- Department of Health (ambulance services)
- Learning and Skills Council
- Colleagues with related interests in the DfT (HQ) group and DVO group.
- Department for Education and Skills (DfES)
- Qualification and Curriculum Authority (QCA)
- Adult Learning Inspectorate (ALI)
- City and Guilds Institute (C&G)

115. The DSA when conducting consultations aim to consult with as wide a range of consultees as possible. It is usual for some 3,000 - 4,000 documents to be issued for

each consultation as well as posting on the Agency and Government web-sites. A more comprehensive list of consultees is provided in the main Consultation Paper; however this is only indicative of the types of groups and individuals/organisations that the Paper would have been issued to. The Agency maintains several databases that are regularly updated to incorporate contact details of those who have requested to be a consultee.

## Monitoring and Review

116. The Agency currently monitors the type, and number of driving tests booked and undertaken. In recent years the vigilance of the Agency in this respect has led to several successful prosecutions against both candidates and instructors colluding to obtain a driving test pass by fraudulent means. The conduct of instructors and driving examiners is also routinely checked either annually or on a more sporadic basis according to the level of competence displayed when initially qualifying or during post qualification checks. One of the proposals made is to enhance the level of checks conducted to ensure the integrity of the test and the examiner conducting it.

## Summary and Recommendation

| Proposa  | Total Cost Per Year*   | Total Benefit Per Year  |
|--|--|---|
| i. introduce a Trainer Booking Facility for instructors to reserve appointments for car theory tests   | One-off cost of up to £50,000  | With the majority of the proposals the benefits are realised more in terms of making systems easier and more efficient – Costs will not be known until tested.<br><br>Enhanced safety requirements and fraud prevention could have realistic savings in terms of accident prevention resulting in lower sickness absence for driving examiners and less harm to the general public.<br><br>Savings in sickness absence could be in the region of £1,700 per injured examiner.<br><br>Current cost of a life is estimated to be around £1,249,900. |
| ii. reduce from 10 to 3 clear Working Days the minimum period of notice which candidates must give to cancel or re-arrange a practical test appointment without a loss of fee  | One-off cost of around £12,000   |   |
| iii. count Saturday as a Working Day for the purposes of:<br>(a) the minimum wait before unsuccessful theory or practical test candidates may re-attempt the test<br>(b) calculating the minimum period of notice for a candidate to cancel or re-arrange a theory or practical test without fee forfeiture<br>(c) the Notification Period for supplying candidate/vehicle details in the Trainer Booking Facility | The reduction in notification periods for candidates could cause costs for the Agency, but we anticipate these will be recovered via fewer compensation payments being made. |   |
| iv. reduce to 1 clear Working Day the minimum Notification Period for supplying candidate /vehicle details for tests within the Trainer Booking Facility   |  |   |
| v. make more rigorous, whilst simplifying the photographic ID requirements at theory and practical tests by candidates presenting a Photo-card Driving Licence   | One-off cost of £9 per individual**  |   |
| vi. improve the security arrangements for persons acting as translators at theory tests  | £4 per person<br>£360 pa total   |   |
| vii enhance the safety requirements for vehicles used for car-plus-trailer, lorry and bus tests  | Around £2million<br>Total cost   |   |
| viii. introduce express provision covering the presence of a member of DSA's quality control team supervising of an examiner conducting an ADI practical qualification test or a check-test  | This is currently undertaken – no additional costs   |   |
| ix. allow more flexibility in the driving experience requirement for those accompanying learners driving lorries and buses   | Nil  |   |

|  |   |  |
|--|---|--|
| x. allow persons with a physical disability to supervise learners driving lorries or buses and vehicle-trailer combinations where this does not present any road safety risk | Nil                                       | If only 2 lives were saved as a result of any of these measures then the costs re-couped would be in excess of 2 million pa. |
| xi. allow theory test invigilators and driving examiners to seize driving licences where fraud is suspected  | Nil                                       |  |
| xii. update the candidate's signatory requirements on the documentation at the practical test  | Incorporated into annual reprinting costs |  |

\* One-off publicity costs of between £2,000 - £5,000 – then incorporated into annual review of publicised materials.

\*\* This will only apply to some individuals – in the main a passport can be used as an alternative

**Contact Point for Enquiries:**

**Mandy Lynch  
DSA Policy  
Stanley House  
56 Talbot Street  
Nottingham  
NG1 5GU**

**Tel: 0115 901 5915**

**Fax: 0115 901 5910**

**e-mail: [mandy.lynch@dsa.gsi.gov.uk](mailto:mandy.lynch@dsa.gsi.gov.uk)**

**Ministerial Sign-Off**

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

**Signed** David Jamieson

**Date 10<sup>th</sup> January 2005**