

EXPLANATORY MEMORANDUM TO
THE MOTOR VEHICLES (TESTS) (AMENDMENT) (No. 2) REGULATIONS
2007

2007 No.1161

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

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Description**

This instrument corrects drafting errors contained in the Motor Vehicles (Tests) (Amendment) Regulations 2006 (S.I. 2006/1998) (“the 2006 Regulations”) which made changes in respect of the re-examination procedures prescribed by regulation 20 of the Motor Vehicles (Tests) Regulations 1981 (“the 1981 Regulations”). The 1981 Regulations require certain motor vehicles to undergo a mandatory annual examination to ensure that they are roadworthy. Such examinations are commonly known as “MOT tests”.

3. **Matters of Special Interest to the Joint Committee on Statutory Instruments**

3.1 Regulation 2(2) of the 2006 Regulations, in respect of the substituted new paragraphs (3) and (3ZA) in regulation 20 of the 1981 Regulations, was reported for defective drafting in the Committee’s First Report of Session 2006-07.

3.2 The instrument covered by this memorandum corrects the defects in drafting by amending the structure of the new paragraphs to set out in a clear way the conditions that must be satisfied, in order to benefit from no fee, or a reduced fee, being charged for the re-examination of a vehicle which has failed the initial examination.

4. **Legislative Background**

4.1 These Regulations are made under sections 45 and 46 of the Road Traffic Act 1988 and by virtue of the provisions of the Department for Transport (Fees) Order 1988.

4.2 Under the Road Traffic Act 1988 it is an offence for certain motor vehicles to be used on the road unless they have been issued with a MOT test certificate. The test certificate is only issued if the vehicle has been examined and found to meet certain requirements relating to its construction and condition, and to its accessories and equipment, and the condition of the

vehicle is not such that its use on the road poses a danger. Where vehicles fail the initial examination, they are required to undergo and pass a re-examination before a test certificate can be obtained.

5. Territorial Extent and Application

This instrument applies to Great Britain.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy Background

7.1 This instrument simply corrects reported drafting errors and does not effect any change in the policy that was made by the 2006 Regulations.

7.2 The 2006 Regulations changed the re-examination procedures so that it was no longer necessary for all vehicles that failed the initial MOT test to undergo a full retest. Instead, the 2006 Regulations introduced a partial re-test (so that mostly just the defective components are re-examined) for a partial fee. The changes will lessen the burden on MOT garages of having to carry out a full retest on all vehicles that fail the initial MOT test. Also motorists should be able to benefit from paying the partial retest fee, rather than the full fee, in many cases.

7.3 A public consultation exercise was carried out in respect of the changes the subject of these Regulations.

7.4 53 organisations and individuals were consulted about the proposals and 10 responses were received. Officials also discussed the proposals during meetings with the associations representing MOT garages. The majority of consultees agreed that the retest procedures should be amended but most thought that the new procedures, as originally drafted, were too complex - the initial proposal was for a three-tiered system of fee for retests. It was also felt that the initial idea of requiring the original tester at the VTS to carry out any retest would be unreasonable and the proposal to drop some free retest items also lacked support from consultees. Similar views were expressed during the liaison meetings with representatives of the MOT trade associations.

7.5 The retest procedures have therefore been simplified to address the concerns raised during the public consultation. Where a vehicle fails its test the advice on the retest procedure is printed on the front of the notice of the refusal of a test certificate. Information about the fee rates for partial tests can be found on the VOSA website by typing "fees and appeals" into the search box. A copy of the fees poster must also be displayed in the reception area of all vehicle test stations and so all stakeholders will be aware of the procedures. General information for motorists about the MOT test is available on the direct.gov website under the motoring section.

8. Impact

A regulatory impact assessment was prepared in respect of the 2006 Regulations.

9. Contact

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