

**EXPLANATORY MEMORANDUM TO
THE MOTOR CARS (DRIVING INSTRUCTION) (AMENDMENT) REGULATIONS
2009**

2009 No. 844

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. **Purpose of the instrument**

- 2.1 This instrument further amends the Motor Cars (Driving Instruction) Regulations 2005 (SI 2005/1902) (the “2005 Regulations”).

- 2.2 The regulations increase the fees for the qualifying tests for persons wishing to become Approved Driving Instructors (ADIs) and the fee for a Trainee Licence which partially trained ADIs may request to enable them to receive payment while gaining practical experience of giving driving instruction.

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

- 3.1 The fee for the theory test (Part 1) taken as part of the ADI qualification process will increase by £10.00 from £80.00 to £90.00 (12.5%) in respect of tests booked on or after 24 April 2009. The fee for this test was last increased on 1 April 2008. The estimated cost to DSA of delivering the ADI theory test is £1.5m in 2009/10. The fees will contribute £575,000 to the overall funding of ADI activities.

- 3.2 The fee for the practical tests (Parts 2 and 3) taken as part of the ADI qualification process will increase by £12.00 from £99.00 to £111.00 (12.1%) in respect of tests booked on or after 24 April 2009. The fees for the practical tests were last increased on 1 April 2008. DSA estimates the cost of delivering these tests to be £2.5 million in 2009/10. Maintaining fees at existing levels would produce a deficit of £320,000 in 2009/10.

3.3 The fee for a six-month Trainee Licence will increase on 24 April 2009 by £15.00 from £125.00 to £140.00 (12%). The fee for this test was last increased on 10 August 2005. Maintaining the fee at current levels would deliver a deficit of £1.07m in 2009/10

3.4 Fee increases over the rate of inflation are required to meet DSA's costs of delivering ADI services. Ministers do not believe there is a case for requiring other fee payers to subsidise instructors seeking to join the register.

4. Legislative Context

4.1 This instrument further amends the Motor Cars (Driving Instruction) Regulations 2005 (SI 2005/1902) (the "2005 Regulations") which are made under Part 5 of the Road Traffic Act 1988. Part 5 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 to have their name entered onto the register of Approved Driving Instructors.

4.2 DSA operates as a Trading Fund under the Driving Standards Agency Trading Fund Order 1997 (SI 1997/873). DSA is required to set fees and charges for its activities at levels that generate sufficient revenue so that the costs of its operations are recovered from users and are not a burden on the general taxpayer. Fees are reviewed annually in the context of each year's planning cycle. Plans for service improvement, performance targets and fees are published in the DSA's Business Plan for that year.

4.3 The fees in these Regulations have been set further to the Department of Transport (Fees) Order 1988 (SI 1988/643), which established a common pool for costs incurred in respect of the functions of the Secretary of State in relation to the register of Approved Driving Instructors. In accordance with the terms of the Order, in setting the levels of fees further to this Order, the Secretary of State has taken into account the costs within those common pools.

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

- *What is being done and why?*

7.1 This instrument implements changes to the fees charged by DSA for the services it provides to persons seeking to qualify as an ADI.

7.2 The main policy objective is to ensure that, as far as is reasonably practicable, the income DSA receives from customers covers the costs it incurs in providing its services. DSA also seeks to apply the Treasury's "user pays" principle.

7.3 The fee increases will affect tests booked on or after 24 April 2009 and those who apply for ADI Trainee Licences on or after that date.

7.4 The changes will be publicised via a Press Notice, messages posted on the DSA website and by articles in Despatch magazine and/or Despatch Express which are sent to ADIs.

- *Consolidation*

7.5 Although it would be helpful to produce a consolidated draft of the principal regulations, resource and time constraints have prevented this.

8. Consultation outcome

8.1 DSA proposed increasing fees for theory and practical driving tests, ADI related fees and charges for the non-statutory services supplied by DSA from 30 March in its consultation paper: *Driving Standards Agency Fees 2009*. The new fees were required to ensure that the income received would be sufficient to meet DSA's costs of delivering the services provided.

8.2 The consultation paper was issued on 27 October 2008. There were 176 responses. The proposals to increase the fees for the theory and practical tests taken as part of the ADI qualification process attracted strong opposition.

8.3 Since consultation began, Ministers have recognised the challenging economic circumstances now faced by learner drivers, trainers and other road and transport operators. DSA has conducted an in-depth review of its cost and expenditure levels. This has resulted in lower fee increases being introduced for practical tests for learner car, lorry and bus drivers. But Ministers do not believe that there is a case for requiring other fee payers to subsidise instructors seeking to qualify to join the Register.

8.4 The review has delayed progress on this instrument to introduce the new fees and the date of implementation has been deferred to 24 April 2009.

9. Guidance

No guidance is being provided.

10. Impact

10.1 A final Impact Assessment is attached to this memorandum.

10.2 Fees for ADI related activities do not impact on business, charities or the voluntary sector.

10.3 The fees do not impact on the public sector.

11. Regulating small business

The legislation does not apply to small business. As a general rule those persons seeking to qualify as an ADI are responsible for paying their own fees for the qualification tests and Trainee Licences.

12. Monitoring and Review

The Agency's fees are not subject to annual uprating based upon a specific formula. In general, they are reviewed each year and amended accordingly. It is, therefore, not possible to predict precisely when further increases will be applied or their size.

13. Contact

The official within the Department for Transport who can be contacted with any queries in relation to the statutory instrument is:

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March 2009

Department for Transport

Summary: Intervention & Options

Department /Agency:
Driving Standards Agency

Title: Fees relating to the ADI Scheme:

- Theory tests taken as part of the qualification process
- Practical tests taken as part of the qualification process
- Trainee Licence fee

Stage: Final

Version: 9

Date: 26 January 2009

Related Publications: Consultation Paper: Driving Standard Agency Fees 2009

Available to view or download at: <http://www.dsa.gov.uk>

Contact for enquiries: Rick Annable

Telephone: 0115 936 6099

What is the problem under consideration? Why is government intervention necessary?

- The income received from the Approved Driving Instructor (ADI) qualification process, together with periodic registration income will not meet the increased costs of the ADI standards supervision scheme
- Comply with HM Treasury 'user pays' principle
- Statutory services have a financial objective to recover the full costs, inclusive of a rate of return on capital employed. The current legislation provides a limited range of charging points and the ADI qualification activities partly funds the overall costs of operating the register of Approved Driving Instructors
- Government intervention is necessary as the supervision of the ADI Register is a function undertaken by The Registrar on behalf of the Secretary of State
- Legislation requires that, once qualified, persons providing paid instruction in driving a motor car should have their name entered in the register of ADIs and stipulates the relevant fee
- Government intervention is necessary as the provision of the ADI qualification process is prescribed in Legislation
- Legislation also requires that partially trained ADIs must hold a valid Trainee Licence in order to give paid instruction which many choose to do. They require supervision to protect the public

What are the policy objectives and the intended effects?

- Ensure that the cost of delivering ADI qualification tests and administering the Register (including the supervision arrangements for ADIs) are fully covered from the income received
- Maintain availability of resources to continue quality assurance, including criminal records checks, to protect the public and improve the driving skill of learner drivers
- Observe HM Treasury "user pays" principle where it is reasonable and fair to do so
- Achieve financial objectives for the statutory service in accordance with regulations
- Not discourage persons from taking up employment as an ADI

What policy options have been considered? Please justify any preferred option.

- Increase the fee for the theory test taken as part of the ADI qualification process by £10.00 from £80.00 to £90.00.
- Increase the fee for the practical tests taken as part of the ADI qualification process by £12.00 from £99.00 to £111.00.
- Increase the Trainee Licence fee by £15.00 to £140.00

Increasing the ADI related fees enables DSA to maintain the current level of service. If the costs were not increased the Agency would run at an operating deficit. As Treasury requires activities to be funded under the 'user pays' principle this would mean a reduction in tests delivered, thereby increasing waiting times for stakeholders with the Agency not meeting operating targets. DSA has considered, through its annual business planning process, whether costs could be reduced or maintained at previous levels. To do so would mean that the level of service provided to customers and the public would fall to unacceptable levels. In order to reduce cost considerably the Agency would need to reduce the level of supervision, quality assurance and criminal records checks that are undertaken and this would lead to increased risks to the public from the regulated activities.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

The level of fees for the ADI related activities are reviewed annually as part of the Agency's Business Planning procedures.

Ministerial Sign-off For final stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:

Jim Fitzpatrick.....Date: 01st April 2009

Summary: Analysis & Evidence

Policy Option:	Description: Fees relating to the ADI Scheme: <ul style="list-style-type: none"> Theory tests taken as part of the qualification process Practical tests taken as part of the qualification process Trainee Licence fee
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COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups' <ul style="list-style-type: none"> Candidates booking theory tests taken as part of the ADI qualification process on or after 30 March 2009 [23,000 theory tests pa x £10.00 per test = £230,000 – £55,200 3% inflation rate = net increase of £174,800] Candidates booking practical tests taken as part of the ADI qualification process on or after 30 March 2009. [28,614 practical tests pa x £12.00 per test = £343,368 - £85,842 3% inflation rate = net increase of £257,526] 7,992 Trainee Licence issues [7,992 licences x £15 extra per licence = £119,880 - £29,970 3% inflation rate = 89,910] Fee for the four-yearly ADI registration [No change]
	One-off (Transition)	Yrs	
	£ NIL		
	Average Annual Cost (excluding one-off)		
	£ 522,236		
		Total Cost (PV)	£522,236
Other key non-monetised costs by 'main affected groups' Increases in costs to providing the tests, relating to basic changes in inflation have been netted out of this analysis – these costs are £171,012			

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups'
	One-off	Yrs	
	£ NIL		
	Average Annual Benefit (excluding one-off)		
	£ NIL		
		Total Benefit (PV)	£NIL
Other key non-monetised benefits by 'main affected groups' <ul style="list-style-type: none"> Maintaining current service levels prevents the creation of a barrier to accessing a career as an ADI through longer waiting times etc. Maintain public confidence in the ADI profession through continued supervision, quality assurance and criminal record checks 			

Key Assumptions/Sensitivities/Risks
Assumptions <ul style="list-style-type: none"> The demand for ADI theory and practical tests will be in line with forecasts The pass rate will remain constant Risks <ul style="list-style-type: none"> Increase in fees may dissuade candidates from seeking qualification as an ADI and give rise to a slight increase in illegal instruction

Price Base Year 2009	Time Period Years 1	Net Benefit Range (NPV) £ NIL	NET BENEFIT (NPV Best estimate) £ -522,236 [cost]
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What is the geographic coverage of the policy/option?	GB			
On what date will the policy be implemented?	30 March 2009			
Which organisation(s) will enforce the policy?	DSA			
What is the total annual cost of enforcement for these organisations?	£ N/A			
Does enforcement comply with Hampton principles?	Yes			
Will implementation go beyond minimum EU requirements?	N/A			
What is the value of the proposed offsetting measure per year?	£ N/A			
What is the value of changes in greenhouse gas emissions?	£ N/A			
Will the proposal have a significant impact on competition?	N/A			
Annual cost (£-£) per organisation (excluding one-off)	Micro Nil	Small Nil	Medium Nil	Large Nil
Are any of these organisations exempt?	N/A	N/A	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices)				(Increase - Decrease)	
Increase of	£ N/A	Decrease of	£ N/A	Net Impact	£ N/A

Key:	Annual costs and benefits: Constant Prices	(Net) Present Value
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Evidence Base (for summary sheets)

Our best judgement is that these proposals deliver costs to the UK without cost to Government. The cost of the theory and practical tests and the Trainee Licences taken as part of the ADI qualification process are met by the candidates themselves. There is no burden on the voluntary sector.

Description of the scheme

DSA proposes to increase the fees for tests and services required as part of the ADI qualification process from 30 March 2009 as follows:

- theory practical tests fees by £10.00 to £90.00
- practical test fees by £12.00 to £111.00
- the ADI trainee licence fee by £15.00 to £140.00

The projected cost of delivering these services has taken account of the following:

- direct costs - such as the salary of an examiner conducting the test
- indirect costs - such as the accommodation, training and supervision of the examiner conducting the test
- direct overheads - such as operational support activities
- indirect overheads - such as Finance, Human Resources, Information Communications & Technology, Executive and Policy costs
- Return on Capital - nominal charging of 3.5% cost of investment
- inflation – estimated 3%

The likely volumes of tests are based on published Business Plan volumes using historic trends adjusted for demographic and underlying changes in business processes where appropriate. Fees are set to recover the full cost of delivering the service. Each fee is calculated by dividing the predicted costs of delivery by the likely number of tests. Costs are compared against the 2009 baseline.

Do Nothing Option

If we opted instead to “do nothing” and retain the level of the current fees, service delivery would suffer, impacting upon customer service targets. Trainee ADIs would incur much longer waiting times for taking their practical qualification tests as resource would be utilised elsewhere. Potentially, this could impact upon their earnings as they would not be able to commence employment until they were qualified.

Why do we need to increase the fee for the theory test taken as part of the ADI qualification process?

The current fee for the ADI theory test is £80.00.

We forecast demand for ADI theory tests will be 23,000 in 2009/10 which will cost approximately £1,496,000 to deliver.

Costs and Benefits

The increase will raise an additional £230,000 income per year. The ADI theory test fee was increased last year by £5.00 and previously in 2007 to support the introduction of Criminal Records Bureau (CRB) checks for Potential Driving Instructors. Although this particular part of the ADI qualification process remains in surplus, the activity as a whole would not recover costs without a fee increase. Some acceptance is made of ADI qualification activities partly funding the overall costs of the ADI register. Not increasing the fees would leave the Agency with a deficit. This would mean a reduction in service levels as waiting times for the test would increase.

Further financial analysis can be found in Table 1.

Preferred Option

Increase the fee for ADI theory test to £90.00

Benefits:

- maintains current service levels
- reflects the 'user pays' principle
- recovers DSA's costs of delivering the ADI services

Costs:

- each theory test would cost the candidate more
- may dissuade candidates from seeking qualification as an ADI and may give rise to a slight increase in illegal instruction

Costs and Benefits

Costs are compared against the 2008 baseline. The projected cost of delivering this service has taken account of the following:

- direct overheads - such as operational support activities
- indirect overheads - such as Finance, Human Resources, Information Communications & Technology, Executive and Policy costs
- inflation - estimated 3%

We estimate the demand for ADI theory tests in 2009/10 will be 23,000 which will cost approximately £1,496,000 to deliver.

With effect from 30 March 2009, the fee for the ADI theory test would be £90.00 which would contribute around £575,000 to the overall funding of ADI activities.

Why do we need to increase the fees for the practical tests taken as part of the ADI qualification process?

We forecast demand for these tests will be 28,614 in 2009/10 which will cost £2,513,000 to deliver. Maintaining fees at current levels would result in a deficit of £320,000.

Preferred Option

Increase the fee for ADI practical tests to £111.00

Benefits:

- Maintains current service levels
- Reflects the 'user pays' principle
- Recovers DSA's costs of delivering the ADI services

Costs:

- Each practical test would cost the candidate more
- May dissuade candidates from seeking qualification as an ADI and may give rise to a slight increase of illegal instruction

Costs and Benefits

The proposed increase would ensure that income covers estimated unit costs of delivering this service. With effect from 6 April 2009, the fee for the practical tests booked as part of the ADI qualification process would be:

Test	current fee	new fee	% increase
part 2 - driving ability	£99.00	£111.00	+12.1%
part 3 - instructional ability	£99.00	£111.00	+12.1%

Further financial analysis can be found in Table 2.

Why do we need to increase the ADI Trainee Licence fee?

The existing Trainee Licence Issue fee is £125.00. We forecast demand for this service will be 7,992 in 2009/10.

The overall cost of the ADI Registration activities will be £5,122,000. Maintaining fees at current levels would result in a deficit of £1,071,000.

Preferred Option

Increase the ADI trainee licence issue fee to £140.00.

Benefits:

- Maintains current service levels
- Recovers the cost of administering ADI Registration Scheme and other supervision arrangements.
- Better reflects the 'user pays' principle
- Maintains public confidence in the ADI profession
- Helps learner drivers identify legitimate trainee instructors

Costs:

- Each Trainee Licence would cost more
- May dissuade candidates from seeking qualification as an ADI and may give rise to a slight increase of illegal instruction

Costs and Benefits

The increase will ensure that income covers estimated unit costs of delivering this service. With effect from 30 March 2009 the fee for the ADI Trainee Licence Issue would be £140.00.

Further financial analysis can be found in Table 3.

Alternative Option to increasing fees at the rates specified

If we did not increase the fees at the rates specified - for example if we did not increase the fee for the theory test at a rate of 12.5% (9.5% above the 3% inflation rate) but opted instead to increase the fee at a lower rate, for example 5%, this would leave us with an operating deficit of around £132,000. To maintain services at the current level this would mean that we would need to draw upon funding from the central Department for Transport (DfT). As income received from the DfT would have been generated by income from taxpayers, this would mean that the ADI scheme would be subsidised by members of the public. This would clearly be unacceptable. This would also be against the HM Treasury's 'user pays' principle that requires the 'user' to pay for any of the services purchased and not be subsidised by general taxpayers.

Policy objectives

- Ensure that the cost of delivering ADI qualification tests and administering the Register (including the supervision arrangements for ADIs) are fully covered from the income received
- Maintain supervision and quality assurance of the ADI registration process
- Offers the public reassurance of the ADI's integrity where offering tuition to vulnerable or young adults
- Observe HM Treasury 'user pays' principle where it is reasonable and fair to do so
- Not discourage persons from taking up employment as an ADI

Equality, Environmental and Social (Health) Impacts

We have conducted initial screening tests on the grounds of:

- Competition Assessment
- Legal Aid
- Sustainable Development
- Carbon Assessment
- Other Environment
- Health Impact Assessment
- Race Equality
- Disability Equality
- Gender Equality
- Human Rights, and
- Rural Proofing

We have not identified any adverse effects resulting from this proposal in respect of the category areas mentioned above.

Small Firms Impact Test

There will be an impact upon driving instructors who are in the main, small or micro businesses; however, the effect will be quite small. Driving Instructors recover the cost of fees for driving tests from their pupils or the pupil will pay directly for the test separate from the driving lesson so the effect will be uniform across the industry – no one area of the industry will be affected more than any other.

Risks and Unintended Consequences

There is a slight risk that candidates will be deterred by the higher cost from seeking qualification or continuing registration as an ADI and increase the incidence of illegal instruction.

There is a risk that the economic downturn will reduce the number of people wishing to qualify as, or remain registered or obtaining a Trainee Licence. Income from this service is geared to volume activity, whereas DSA's costs (permanent staff and property) are more or less fixed in

the short term if the Agency is to maintain service standards in terms of waiting times and service delivery points. Therefore the financial balance could move adversely towards deficit.

Monitoring and Evaluation

Fees for ADI qualification tests and Trainee Licences will be reviewed annually as part of the Agency's Business Planning procedures.

The four-yearly registration fee will remain at £300 until 31 March 2012.

TABLE 1

FINANCIAL ANALYSIS - FEE FOR THE THEORY TEST TAKEN AS PART OF THE ADI QUALIFICATION PROCESS

		2007- 08 actual	2008 - 09 estimate	2009-10 forecast
Volume of total fee earning transactions expected (number)		19,000	21,036	23,000
Fee charged/proposed ² (£)		£75	£80	£90
Fee income from service (before proposed increase) (£k)		£1,427	£1,683	£1,840
Increased income from new/revised fee (£k)				£230
Operating budget for service (before input price increases and any other added expenditure) (£k)		£1,325	£1,366	£1,366
Additional costs of providing service (examples below)	Volume			£39
	Inflation			£21
				£0
	Other			£89
Less efficiency savings (£k)				
Interest/GIBS/ROCE		-£44	-£32	-£19
Net surplus / (deficit) for service in year (£k)		£146	£349	£575
Accumulated surplus / (deficit) brought forward from previous period (£k)		£157		
Net surplus / (deficit) for service at year end ¹ (£k)		£303	£652	£1,227

TABLE 2

FINANCIAL ANALYSIS - FEES FOR PRACTICAL TESTS TAKEN AS PART OF THE ADI QUALIFICATION PROCESS

		2007-08 actual	2008-09 estimate	2009-10 forecast
Volume of total fee earning transactions expected (number)		33,553	29,848	28,614
Fee charged/proposed ² (£)		£85	£99	£111
Fee income from service (before proposed increase) (£k)		£2,831	£2,887	£2,833
Increased income from new/revised fee (£k)				£343
Operating budget for service (before input price increases and any other added expenditure) (£k)		£2,820	£2,392	£2,392
Additional costs of providing service (examples below):	Volume			-£49
	Inflation			£70
				£0
	Others			£164
Less efficiency savings (£k)				
Interest/GIBS/ROCE		-£145	-£107	-£64
Net surplus / (deficit) for service in year (£k)		£156	£602	£663
Accumulated surplus / (deficit) brought forward from previous period (£k)		-£108		
Net surplus / (deficit) for service at year end ¹ (£k)		£48	£650	£1,313

TABLE 3

FINANCIAL ANALYSIS - FEE FOR THE TRAINEE LICENCE/ADI REGISTRATION

		2007- 08	2008- 09	2009-10
		<i>actual</i>	<i>estimate</i>	<i>forecast</i>
Volume of total fee earning transactions expected (number)		19,715	21,000	19,992
Fee charged/proposed ² (£)		£125/£200	£125/£300	£140/£300
Fee income from service (before proposed increase) (£k) Includes Trainee Licences		£3,463	£3,339	£5,002
Increased income from new/revised fee (£k)				£120
Operating budget for service (before input price increases and any other added expenditure) (£k)		£5,465	£5,752	£5,752
Additional costs of providing service (examples below):	Volume			
	Inflation			£173
	Other			£292
Less efficiency savings (£k)				
Interest/GIBS/ROCE		-£325	-£239	-£144
Net surplus / (deficit) for service in year (£k)		-£1,677	-£2,174	-£951
Accumulated surplus / (deficit) brought forward from previous period (£k)		£2,613		
Net surplus / (deficit) for service at year end ¹ (£k)		£936	-£1,238	-£2,189

Specific Impact Tests: Checklist

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	Yes	No
Sustainable Development	Yes	No
Carbon Assessment	Yes	No
Other Environment	Yes	No
Health Impact Assessment	Yes	No
Race Equality	Yes	No
Disability Equality	Yes	No
Gender Equality	Yes	No
Human Rights	Yes	No
Rural Proofing	Yes	No