

**EXPLANATORY MEMORANDUM TO**  
**THE MOTOR CARS (DRIVING INSTRUCTION) (AMENDMENT) REGULATIONS**  
**2017**

**2017 No. 1156**

**1. Introduction**

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

**2. Purpose of the instrument**

2.1 These Regulations make amendments to the qualifying tests undertaken by Potential Driving Instructors (PDIs). The amendments concern how the ‘instructional ability and fitness test’ and the practical ‘driving ability and fitness test’ for PDIs are carried out.

2.2 These Regulations require the PDI to give instruction to a pupil (either a novice driver or a full licence holder) during the instructional ability and fitness test, and removes the requirement of giving instruction to a Driver & Vehicle Standards Agency (DVSA) examiner playing the role of a pupil. The requirement that the examiner chooses the subjects on which the candidate will instruct the examiner has been removed, as well as the list of subjects on which the examiner may be instructed. The criteria on which the examiner assesses the candidate’s knowledge and ability to instruct is also amended to be consistent with the test of continued ability and fitness to give instruction.

2.3 These Regulations also make changes relating to the requirements for the vehicle which is to be provided for the instructional ability and fitness test. The vehicle must be capable of being driven by a pupil and the driver and front passenger seats must be fitted with a seat belt and head restraint. The rear seat must also be fitted with a seat belt for use by the examiner. Finally, the requirements for the policy of insurance relating to the vehicle being used for this test has been changed to those set out in Part VI of the Road Traffic Act 1988 (third party liabilities), to reflect that it is no longer necessary to insure the examiner.

2.4 These Regulations also make a technical amendment to remove reversing round a corner as a manoeuvre, which a PDI may be required to perform during the technical control of the vehicle part of the driving ability and fitness test.

**3. Matters of special interest to Parliament**

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

3.1 None.

*Other matters of interest to the House of Commons*

3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

#### **4. Legislative Context**

- 4.1 Part V of the Road Traffic Act 1988, sets out the requirements that apply to the delivery of driving instruction in Great Britain (GB). The Act requires that anyone delivering paid instruction in the driving of a motor car must have their name entered onto the Register of Approved Driving Instructors by the Registrar, an official at the DVSA. Further detailed provisions concerning the Registration of Driving Instructors are contained in the Motor Cars (Driving Instruction) Regulations 2005 which are made under the 1988 Act and which are amended by these Regulations.

#### **5. Extent and Territorial Application**

- 5.1 The extent of this instrument is Great Britain.
- 5.2 The territorial application of this instrument is Great Britain.

#### **6. European Convention on Human Rights**

- 6.1 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 DVSA's published 2017-18 business plan outlines the intention to modernise the Approved Driving Instructor (ADI) qualification process, by amending the current test of instructional ability. This is being done as part of DVSA's commitment to help keep people safe throughout their driving career - providing learner drivers with instructors who are fully capable of preparing them for their driving test and to drive independently once they have passed that test. Government intervention is necessary to change the way that the instructional ability and fitness test is conducted, as the elements of this test are set out in legislation.
- 7.2 Professional car driving instruction is a regulated activity delivered by ADIs. In GB, it is unlawful for a person to conduct driving instruction for payment unless they are an ADI. To qualify as an instructor, PDIs must successfully complete a theory test, a test of driving ability and a test of instructional ability. The current instructional test involves a DVSA examiner playing the role of a pupil using pre-set tests. This does not allow PDIs to demonstrate some of the key competencies required of them. It is also difficult for the examiner to effectively assess a PDI's competence whilst, at the same time, role-playing the part of a learner driver and interacting with other road users.
- 7.3 Working with educational and training experts and supported by key industry stakeholders, DVSA has developed and published an evidence-based National Standard for Driving Cars and Light Vans (NSD) – which sets out the competencies required to be a safe and responsible driver, and the DVSA National Standard for Driver and Rider Training (NSDRT) – which sets out the competencies required to give effective training in the learning outcomes of the NSD.
- 7.4 In April 2014, DVSA changed the test of continued ability and fitness to give instruction, which qualified ADIs must undergo every four years to demonstrate that their instructional ability remains of a satisfactory standard. This test was changed so that it reflected the learning outcomes of the NSDRT and it has been operating

successfully since it was introduced. Updating the instructional ability and fitness test would align it with that assessment.

- 7.5 Modernising the instructional test will make it a more effective assessment by allowing the examiner to observe all PDIs conducting lessons with a 'real' pupil and not delivering a rehearsed scenario determined by a pre-set test. It will improve the standards of the instructors on the Register by providing a realistic test that will more accurately reflect that the PDI has demonstrated all of the necessary competencies to be an effective instructor. This should result in better-qualified ADIs who are more able to prepare learner drivers for the licence acquisition test and for a lifetime of safe driving.
- 7.6 There are approximately 10,000 PDIs going through the qualification process at any one time. There are nearly 40,000 ADIs on the Register of Approved Driving Instructors.
- 7.7 DVSA first consulted on amending the instructional test for PDIs in DVSA's Modernising Driver Training consultation in 2013. Since then, DVSA has had numerous informal discussions with the instructor training industry on amending the tests, including conducting surveys in 2016 and 2017 with those who would be affected by the changes. The ADI industry has been actively encouraging DVSA to make these changes and stakeholders are supportive.
- 7.8 The changes to the practical driving ability and fitness test are minor and technical in nature, only.

#### ***Consolidation***

- 7.9 There are no plans to consolidate the Motor Cars (Driving Instruction) Regulations 2005 at this time.

### **8. Consultation outcome**

- 8.1 The Modernising Driver Training Consultation Paper ran between 27 June and 8 August 2013.
- 8.2 DVSA received responses from registered driving instructors, ADI Association representative bodies, instructor trainers, road safety organisations and members of the public.
- 8.3 The Consultation Paper, and response document, were posted on the [www.gov.uk](http://www.gov.uk) website here: [modernising-driver-training](http://www.gov.uk/modernising-driver-training)
- 8.4 1,679 responses to the Consultation Paper were received.
- 8.5 The response to consultation, which was published the following summer, concluded that DVSA had decided to explore the options for replacing the existing instructional ability test with a test that uses the same criteria and marking framework as the revised test of continued ability and fitness to give instruction: 74% of respondents to the consultation supported this option.
- 8.6 DVSA's intention to change the instructional test was first set out in the DVSA Business Plan for 2015-16. In order to gather feedback, and gain a greater understanding of industry awareness of the proposed changes to the test, an online survey was carried out between 22nd March and 5th April 2016. A further survey was carried out between 9th and 22nd November 2016. DVSA's intention was then confirmed in the 2016-17 Business Plan.

- 8.7 Between 20th April and 12th May this year, over 10,000 further people were surveyed: instructor trainers, all potential ADIs in the process of qualifying and those ADIs that had qualified through the current process since the test of continued ability and fitness to give instruction was changed in 2014. This included an opportunity for people to highlight any benefits/dis-benefits of the revised test.
- 8.8 In addition, the Registrar has been involved in discussions with the industry since 2014 and has published a number of blog posts directed at those who will be most affected by the changes.
- 8.9 There has been very good support from the main stakeholders and instructor trainers.
- 8.10 The findings from the specific surveys can be found on the website [www.gov.uk](http://www.gov.uk) here: [adi-part-3 proposed-changes-to-the-test](#)

## **9. Guidance**

- 9.1 DVSA produce a standard operating procedure for its driving examiners, called the “ADI 1”. This guidance document sets out how driving examiners carry out the various types of DVSA instructor tests and inspections. As a result of changing the qualification tests, DVSA has updated the ADI 1. Although the guidance is primarily written for DVSA examiners, it is assumed that all instructor trainers would want to make sure that they are familiar with this guidance and how the test will be conducted, so that they are fully preparing their candidates for the revised test.
- 9.2 Guidance for driving examiners carrying out the qualification tests is published on [www.gov.uk](http://www.gov.uk) and is available here: [adi1](#). DVSA is also notifying stakeholders directly of the changes.

## **10. Impact**

- 10.1 The impact on business is minimal. There is no impact on charities or voluntary bodies. The monetised costs to business is less than £70,000 p.a. This is a high estimate, including the cost of providing free lessons, and the cost of pupils cancelling at short notice.
- 10.2 The impact on the public sector is minimal. The monetised costs to the public sector is less than £6,000 p.a., which is the cost to DVSA of tests cancelled at short notice when the pupil lets down the candidate.
- 10.3 The practical impact of these changes will be that every PDI will be required to give instruction to a pupil during the instructional ability and fitness test. Approximately 4,000 PDIs take this test each year. Some PDIs may not have a pupil base and it is anticipated that they will provide instruction to a friend or relative during the instructional ability test. It is assumed that they will provide this lesson for free. On rare occasions, a pupil may cancel at short notice. This would result in some cost to the PDI, as they will have given up their time to attend the test and will need to re-arrange the appointment.
- 10.4 A Regulatory Triage Assessment is submitted with this memorandum and is published alongside the Explanatory Memorandum on the [legislation.gov.uk](http://legislation.gov.uk) website. A formal Impact Assessment is not required because these measures are low cost or have minimal impact on business, and the appropriate internal regulatory clearances have been received.

## **11. Regulating small business**

- 11.1 The legislation applies to activities that are undertaken by small businesses.
- 11.2 To minimise the impact of the requirements on small businesses (employing up to 50 people), the approach taken is that DVSA has been working with those directly affected to allow them sufficient time and advice to prepare for the revised test. Whilst all instructor trainers will be affected by the revised test, in how they conduct instructor training, this should have no significant cost impact on them. The majority of trainers already operate to the NSD and the NSDRT and so, amending the assessment to align it with these national standards should not alter their training methods.
- 11.3 In addition, no evidence has been supplied to state that changing the test would have a cost impact on training providers.
- 11.4 For the purposes of establishing a cost to business regarding familiarisation costs with the revised guidance documents, all registered trainers have been accounted for. This one-off cost is estimated as being less than £9,000.

## **12. Monitoring & review**

- 12.1 A separate review provision has not been inserted in to these Regulations as regulation 23 of the Motor Cars (Driving Instruction) Regulations 2005 states that those regulations must be reviewed and the review published by 9th December 2021. The impacts of these changes will, therefore, form part of that review.

## **13. Contact**

- 13.1 Elisabeth Flaherty, at the Central Policy Unit, Driver & Vehicle Standards Agency, telephone: 0115 936 6161 or email: Lis.Flaherty@dvsa.gov.uk, can answer any queries regarding the instrument.