

**EXPLANATORY MEMORANDUM TO**  
**THE MOTOR VEHICLES (TESTS) (AMENDMENT) (CORONAVIRUS)**  
**REGULATIONS 2020**

**2020 No. 382**

**1. Introduction**

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

**2. Purpose of the instrument**

- 2.1 In anticipation of potential disruption to the testing regime for vehicles caused by coronavirus, this instrument excludes light vehicles (cars, vans, motor cycles, etc.) that are due to be examined from 30<sup>th</sup> March 2020 to 29<sup>th</sup> March 2021 from the requirement to hold a test certificate for a one-off period of six months. Appropriate limitations are included (e.g. the exclusion does not apply to vehicles that already need a test certificate to be used on a road but do not have one) and vehicle users are still required by the Road Traffic Act 1988 (“the 1988 Act”) to ensure vehicles are in good working order.

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

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

- 3.1 Due to the current circumstances and the potential for widespread disruption to the vehicle testing regime with little or no notice, this instrument will come into force the day after it is made. It has also been necessary to bring this instrument into force before it has been laid before Parliament and while Parliament is in recess for the same reason; the Speakers of the Houses have been informed accordingly.

*Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)*

- 3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

**4. Extent and Territorial Application**

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

**5. European Convention on Human Rights**

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

## **6. Legislative Context**

- 6.1 The periodic testing regime for vehicles is governed by Part II of the 1988 Act. Section 47(1) imposes a general prohibition against using a vehicle (other than a goods vehicle) on a road without a test certificate and section 47(5) confers a power on the Secretary of State to exclude (through regulations) classes of vehicle from the scope of this prohibition. In accordance with section 192(3), a class of vehicle can be defined by reference to any circumstances whatsoever. The existing exclusions can be found in regulation 6 of the Motor Vehicles (Tests) Regulations 1981, which is amended by this instrument.
- 6.2 The exclusion introduced by this instrument does not apply to public service vehicles or goods vehicles. For those types of vehicle, the Secretary of State has exercised the powers provided by sections 48(4) and 53(5) to issue certificates of temporary exemption from the test certificate requirement.

## **7. Policy background**

### *What is being done and why?*

- 7.1 The 1988 Act broadly prohibits using a vehicle without a current test certificate. For most light vehicles (e.g. cars, vans, motorbikes) the first test is due three years after first registration, with a test required annually thereafter. Some light vehicles (taxis and ambulances) require a test annually from first registration.
- 7.2 Testing for light vehicles is provided by the private sector. There are around 23,500 test stations and in normal times there is a surplus of capacity. However, given the widespread impact of COVID-19 there are likely to be local difficulties obtaining testing imminently, with more widespread difficulties as the pandemic develops. Without exempting vehicles from requiring an MOT, many people may have to unlawfully use their vehicle without an MOT, to reach work or essential shopping, which is a particular concern for vulnerable people. The lack of a valid MOT may also mean that vehicles cannot be taxed and using a vehicle unlawfully may also invalidate insurance cover. Around 16.6 million relevant MOTs are due to expire over the next 6 months.
- 7.3 There has been widespread regional and trade media coverage on whether people still need an MOT. Both the Department for Transport and the Driver and Vehicle Standards Agency (“the DVSA”) have received numerous enquiries from members of the public and media about the latest status of the test.
- 7.4 This instrument introduces a one-off, six-month exclusion from the requirement to hold a test certificate that will enable drivers to continue to travel for a purpose permitted by law, such as purchasing essential food and medicine, even if the testing regime is disrupted. The exclusion operates as follows:
- If a light vehicle has an MOT due date between 30th March 2020 and 29<sup>th</sup> March 2021 (whether for a first test or a periodic test), the vehicle can be used on a road without a test certificate for a period of six months beginning on the day after the due date.
  - As an example, a vehicle with an MOT due date of 4th April 2020 could not ordinarily be used on a road without a test certificate from the beginning of 5th April 2020. Because of this instrument, it would instead be excluded from the

test certificate requirement from that time for six months. The last day on which it could be used without a test certificate would be 4th October 2020.

- The exclusion only applies if a vehicle could be used lawfully on a road immediately before the coming into force of this instrument at the beginning of 31st March 2020. Vehicles with an MOT due date of 30th March 2020 will benefit from the exclusion (as their use would have been lawful to the end of that day – immediately before 31st March) while vehicles with earlier due dates and without current test certificates will not.
- If a vehicle is examined during the six-month period and fails, the exemption will cease to apply to it from that time.

7.5 Although exempt from MOT, vehicle owners remain responsible for ensuring their vehicles are safe to use and could be prosecuted in the event that they were not properly maintained. Garages are excluded from the requirement for businesses to close and the Government would encourage them to remain open for essential repair work.

7.6 This instrument is being introduced to address the ongoing pandemic and will be revoked if it no longer serves a useful purpose. It is planned that any change in policy would only apply to vehicles that had not yet been excluded. This would also allow for a staggered testing of excluded vehicles as their six-month period ended.

7.7 The DVSA has separately issued certificates of temporary exemption from the requirement to hold a test certificate for goods vehicles and public service vehicles.

## **8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union**

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act

## **9. Consolidation**

9.1 No consolidation is being done.

## **10. Consultation outcome**

10.1 As required by section 195(2) of the Road Traffic Act 1988, the Secretary of State has consulted representative organisations relating to these legislative proposals. Following telephone calls and emails between the Department and relevant organisations, fifteen responses were received, expressing broad support received for these proposals. Due to the urgency of the situation this consultation was carried out in a shorter than usual timescale. Some concerns were raising in relation to the financial impact of the proposals on the testing industry, as well as difficulties relating to the reintroduction of testing following the pandemic.

## **11. Guidance**

11.1 Guidance relating to the effect of these legislative changes can be found at <https://www.gov.uk/guidance/coronavirus-covid-19-mots-for-cars-vans-and-motorcycles-due-before-30-march-2020> and requested from the Department for Transport, Great Minster House, 33 Horseferry Road, London, SW1P 4DR.

## **12. Impact**

- 12.1 The key impact on business, charities or voluntary bodies is the costs to the industry which have been estimated at £664 million, which is based on the average cost of an MOT of £40 multiplied by the number of MOTs due over the next 6 months. This may be mitigated in part by Government support for industries affected by the ongoing pandemic.
- 12.2 The key impact on the public sector is an estimated £34 million loss to the DVSA. This is estimated through the reduced revenue from MOT 'slot fee' of £2.05 multiplied by the number of tests due over the next 6 months.
- 12.3 Key impacts to the public and road users could be the potential risks to safety due to untested vehicles using the roads and the impacts to drivers and other vehicles using the roads. The Department has estimated that over the next 6 months, approximately 29% of those tested (around 4.9 million vehicles) would have received a 'dangerous' or 'major' MOT failure over the next 6 months, however the maintenance requirements and low risk of incidents occurring from vehicle defects mitigates this risk. The increased risk in mechanical failures occurring may increase breakdown frequency, causing congestion and increase travel times, but, the risk remains low during the 'stay at home' rules as trips are made for essential purposes only.
- 12.4 The Department has judged that the benefits of enabling key workers and members of the public to continue essential journeys, although not easily quantifiable, would be greater than the potential costs and justifies the rationale for intervening. This policy would also contribute to reducing the risk of the disease spreading and industry being unable to continue with essential maintenance during this period.
- 12.5 An Impact Assessment has not been prepared for this instrument due to the time available during the pandemic. Broad brush figures are set out by the proportionate analysis set out above.

## **13. Regulating small business**

- 13.1 The legislation applies to activities that are undertaken by small businesses.
- 13.2 No specific action is proposed to minimise regulatory burdens on small businesses.
- 13.3 The basis for the final decision on what action to take to assist small businesses is that as this instrument does not increase the regulatory burdens on small businesses, no action is required.

## **14. Monitoring & review**

- 14.1 This exclusion will be kept under review by the Department. If it is no longer required, the final date on which a six-month exclusion can begin (30th March 2021) may be brought forward by a further instrument. Motorists will be given advance notice of any such change and a six-month exclusion that has already begun will not be curtailed.
- 14.2 The Regulation does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015 Secretary of State, Rt Hon Grant Shapps MP has made the following statement: "In my view, it is not appropriate to provide for a review of this instrument as it will cease to have effect after a short and fixed period of time."

**15. Contact**

- 15.1 Antony Ovens at the Department for Transport Telephone: 07977 432199 or email: antony.ovens@dft.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Duncan Price, Divisional Manager for Freight, Operator Licensing and Roadworthiness, at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Secretary of State, Rt Hon Grant Shapps MP at the Department for Transport can confirm that this Explanatory Memorandum meets the required standard.