

EXPLANATORY MEMORANDUM TO

The Motor Vehicle Testing (Amendment) Regulations (Northern Ireland) 2013

S.R. 2013 No. 217

The Goods Vehicles (Testing) (Amendment) Regulations (Northern Ireland) 2013

S.R. 2013 No. 218

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department of the Environment to accompany the Statutory Rules (details above) which are laid before the Northern Ireland Assembly.

2. Purpose

- 2.1. The purpose of the first SR is to amend regulation 6 of the Motor Vehicle Testing Regulations (Northern Ireland) 2003 to exempt vehicles having a manufacture date before 1st January 1960 from the mandatory requirements for a vehicle test.
- 2.2. The purpose of the second SR is to amend Schedule 2 of the Goods Vehicles (Testing) Regulations (Northern Ireland) 2003 to exempt goods vehicles not exceeding 3,500 kilograms having a manufacture date before 1st January 1960 from the mandatory requirements for a vehicle test.

3. Background

- 3.1. The regulations make use of the exemption in Roadworthiness Directive 2009/40/EC concerning the periodic testing of pre-1960 vehicles. Vehicles of this age tend to be valuable, and therefore well looked after. They also tend not to be used regularly on roads, thereby decreasing the risk of collisions. The aim is to reduce the regulatory burden on owners of historic vehicles and enthusiasts.

4. Consultation

- 4.1. Consultation documents were issued to interested parties between 29th November 2011 - 21st February 2012 and the majority of responses to the consultation were supportive of exempting pre-1960 vehicles from periodic testing.

5. Equality Impact

- 5.1. In accordance with its duty under section 75 of the Northern Ireland Act 1988, the Department conducted a screening exercise on the proposals and concluded that they do not have significant implications for equality of opportunity. The measures will not affect any group disproportionately. In light of this the Department considers that an equality impact assessment is not necessary.

6. Regulatory Impact

- 6.1. A Regulatory Impact Assessment of the effect these regulations will have on the costs of business is available from the Department of the

Environment at www.doeni.gov.uk/roadsafety and is attached as an Annex.

7. Financial Implications

7.1. Not applicable.

8. Section 24 of the Northern Ireland Act 1998

8.1. The proposed Regulations are not incompatible with Section 24 of the Northern Ireland Act 1998.

9. EU Implications

9.1. Not applicable.

10. Parity or Replicatory Measure

10.1. The first SR replicates S.I. 2012 No. 2652 in its entirety.

11. Additional Information

11.1. Not applicable.

Final Regulatory Impact Assessment

1. Title of Proposal

Impact assessment of legislation to exempt certain categories of historic vehicles from periodic testing.

2. Purpose and intended effect of measure

(i) Objective

The objective of this measure is to exempt from periodic testing vehicles which have a date of manufacture before 1 January 1960. The proposed regulations would make use of the exemption in Roadworthiness Directive 2009/40/EC concerning the periodic testing of pre-1960 vehicles. Vehicles of this age tend to be valuable, and therefore well looked after. They also tend not to be used regularly on roads, thereby decreasing the risk of collisions.

The intended effect of this measure is to reduce the regulatory burden on owners of historic vehicles and enthusiasts. The measure will also align with Britain, where the exemption came into effect on 18 November 2012.

(ii) Background

All motor vehicles used on roads in the United Kingdom are required to undergo a periodic roadworthiness inspection. For private cars, this inspection (“the MOT test”) is carried out for the first time when the vehicle is 4 years old in Northern Ireland, when 3 years old in Britain and every year thereafter.

Directive 2009/40/EC on roadworthiness tests for motor vehicles and their trailers introduced an exception permitting Member States to exclude from the scope of the Directive vehicles which are never, or hardly ever, used on public highways, including vehicles of historic interest which were manufactured before 1 January 1960 or which are temporarily withdrawn from circulation.

However on 13 July 2012, the European Commission published a ‘Roadworthiness Package’ which, amongst other things, addresses periodic roadworthiness tests for motor vehicles, therein making changes to the rules that apply to historic vehicles; the proposals are expected to be introduced no earlier than August 2014. So, whilst the Department’s policy intentions remained the same; that is to make exempt pre-1960 vehicles from the MOT regime, we had to be mindful of the changing legislative context, to ensure that any changes we make are not made redundant by incoming EC Regulations. Following receipt of a further update on the EU negotiations regarding the roadworthiness package, one of the main amendments in which was a change to the definition of “historic vehicles” which allows vehicles that have not undergone “substantial” changes to be still classed as historic, thus

enabling the Department to proceed with legislative amendments to exempt pre-1960 vehicles from the MOT test.

In Britain, the Department for Transport introduced an exemption from testing for pre-1960 vehicles, which came into effect on 18 November 2012.

The power in Northern Ireland to amend legislation dealing with roadworthiness testing lies with the Department and is contained in the Road Traffic (NI) Order 1995. The motor vehicle test (MOT) is provided for by the Motor Vehicle Testing Regulations (NI) 2003 and goods vehicle test by the Goods Vehicles (Testing) Regulations (NI) 2003.

(iii) Risk assessment

Two main risks in respect of the proposals were identified at consultation stage:

The first is that motorists may be tempted to use classic cars for everyday motoring. Cars within the scope of the proposals are already exempt from motor tax; if they were also exempt from vehicle testing they could be considered a 'cheap option'. Whilst genuine enthusiasts are generally known to maintain their cars well and safely, the absence of a test requirement could lead to less scrupulous motorists acquiring older cars purely because of the cost factor. Such a trend could lead to an increase in road traffic collisions due to poorly maintained vehicles.

The second potential risk is that enthusiasts can have a number of in-scope vehicles which are off the road due to the cost or difficulty of getting them through an MOT test. If there was no longer a requirement for such vehicles to have a valid MOT certificate, there would be nothing to prevent their use on the road other than the normal construction and use regulatory system. There is therefore potential for vehicles which would not otherwise be allowed on the road to be put into regular use, resulting in an increased risk of road traffic collisions.

A further potential risk was subsequently identified in relation to 'cherished transfers' (the transfer of good or valued old registration numbers) and the potential issue that cherished transfers could no longer be facilitated if pre-1960 vehicles could no longer undergo MOT. Neither DVLA nor the Cherished Number Dealers Association responded to the consultation, however DVA Vehicle Licensing side indicated that a vehicle cannot take part in a cherished transfer unless the owners can put their vehicles through a 'voluntary' MOT. Northern Ireland law differs from British law in relation to provision for voluntary MOT test, however this issue has been resolved and agreement has been reached with DVA that it will carry out these tests on request.

3. Options

The three options were:

- Exempt all pre-1960 vehicles;

- Exempt all pre-1945 vehicles; and
- Exempt all pre-1920 vehicles.

The baseline 'Do Nothing' option was also open to the Department, i.e. retain the requirement for all vehicles used on roads to undergo a periodic roadworthiness inspection. There would be no implementation costs or benefits associated with the Do Nothing option.

4. Benefits

The main benefit is a reduction in the regulatory burden on owners of historic vehicles and is the same for all options; the only difference is the age of the vehicle (i.e. pre-1960, pre-1945 or pre-1920).

Classic vehicle enthusiasts would no longer be required to submit their vehicles for annual test, therefore saving the test fee which is currently £30.50. There would also be potential savings, both financial and time, arising from not having to travel to DVA test centres.

There would be a minor benefit to DVA, as the exemption of historic vehicles from periodic testing would free up time to provide tests for other vehicles, which could lead to a decrease in waiting times for test appointments.

5. Costs

An exemption from testing for historic vehicles would result in a loss of fee income for DVA. The cost of a single MOT test or LGV test is £30.50.

Option to exempt all pre-1960 vehicles:

Using figures provided by DVA, there were 1,405 pre-1960 vehicles tested between April 2010 and April 2011.

Had these vehicles been exempt from periodic testing, the loss of fee income for DVA would have been £42,852.

Option to exempt all pre-1945 vehicles:

Using figures provided by DVA, there were 424 pre-1945 vehicles tested between April 2010 and April 2011.

Had these vehicles been exempt from periodic testing, the loss of fee income for DVA would have been £12,932.

Option to exempt all pre-1920 vehicles:

Using figures provided by DVA, there were 15 pre-1920 vehicles tested between April 2010 and April 2011.

Had these vehicles been exempt from periodic testing, the loss of fee income for DVA would have been £457.

However the exemption of historic vehicles from periodic testing would also free up capacity in the vehicle testing system and potentially lead to a reduction in waiting times for vehicle tests; any financial implications for DVA are therefore likely to be minimal.

There may also be costs to society as removing the test for historic vehicles could have a negative impact on road safety through potentially un-roadworthy vehicles being on the road and also the environment as CO² and air pollutant emissions may increase.

6. Small Business Impact Test

Not applicable. This is a deregulatory measure which will affect private drivers and vintage vehicle enthusiasts. Small businesses will not be affected by this measure.

7. Enforcement and Sanctions

Not applicable as this is a deregulatory measure.

8. Other Impact Assessments

An equality screening exercise has been carried out and no equality implications have been identified. There are also no human rights, environmental, rural or health issues involved in relation to this proposed measure and it will have no impact on development, sustainable or otherwise.

9. Monitoring and Review

This is a deregulatory measure to make use of the exemption in Roadworthiness Directive 2009/40/EC concerning the periodic testing of pre-1960 vehicles. It will also align with Britain in relation to exemption from periodic testing of pre-1960 vehicles. There are therefore no plans to monitor or review the measure.

10. Consultation

The Department issued a consultation on 29 November 2011 seeking the views of the Northern Ireland historic vehicle community and other stakeholders on possible exemption of certain historic vehicles from periodic testing. The consultation closed on 21 February 2012.

The consultation set out three possible options for exemptions, based on the ages of the vehicles. The three options were:

- Exempt all pre-1960 vehicles;
- Exempt all pre-1945 vehicles; and

- Exempt all pre-1920 vehicles.

The Department received 15 responses to the consultation. 14 supported the exemption of all pre-1960 vehicles from periodic testing and 1 response opposed any relaxation in testing.

Generally the respondents made the point that owners of 52 year old vehicles (i.e. pre 1960) will have expended a lot of time and resources into making them roadworthy.

3 respondents felt that commercially used vehicles should be excluded from any exemption scheme, whilst 5 felt that buses and coaches should be excluded. A further 2 respondents suggested such vehicles could be included but with restrictions on their use.

All but one of the respondents felt that motorcycles should be included in any exemptions.

Finally, 2 of the respondents suggested a voluntary test should be available for exempted vehicles should owners request it.

Federation of British Historic Vehicle Clubs response

The response from the Federation of British Historic Vehicle Clubs (FBHVC) included a survey carried out amongst over 4000 of its members in late 2011. This was commissioned in response to a similar consultation issued in 2012 year by the Department for Transport covering England, Scotland and Wales. However, the broad response base is very useful in determining trends of opinion. The key findings of the FBHVC survey can be summarised as follows:

- 74% of respondents believe that the MOT testing regime for historic vehicles should be relaxed in some way while 26% believe the test should continue as it is.
- 59% agreed with the proposal that all pre-1960 vehicles should be exempt;
- 71% respondents believe that pre-1960 historic vehicles in commercial use should remain subject to testing even if other pre-1960 vehicles are exempted.
- 53% of respondents said they would take their vehicles for test if this could be done on a voluntary basis.

Summary of Consultation Responses

The responses indicate that there is broad support for exemption of pre-1960 vehicles from periodic testing, although there are concerns about potential exploitation of pre-1960 vehicles for commercial purposes and resulting safety issues.

At the same time there is broad support for the inclusion of motorcycles in the exemption and some support for the retention of a voluntary test for in-scope vehicles.

11. Summary and Recommendation

The Department is committed to proceeding with exempting pre-1960 vehicles from periodic testing and recommends amendment to the Motor Vehicle Testing Regulations (NI) 2003 and Goods Vehicles (Testing) Regulations (NI) 2003.

12. Declaration

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

Signed: Iain Greenway

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Contact Point

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