

EXPLANATORY MEMORANDUM TO
THE ROAD TRAFFIC OFFENDERS ACT 1988 AND MOTOR VEHICLES
(DRIVING LICENCES) (AMENDMENT) REGULATIONS 2015

2015 No. 2004

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 are made to further transpose Directive 2006/126/EC of the European Parliament and of the Council of 20 December 2006 (“the Directive”) on driving licences, which came into force on 19 January 2013. The Directive sets out the requirements that Member States must have in place for drivers to obtain driving licences. It also makes provision in relation to the validity and mutual recognition of driving licences across Member States.
- 2.2 These regulations amend existing legislation in relation to Community licence holders who have been disqualified from driving in Great Britain until they have passed an appropriate test. Amendments are made to entitle a Community licence holder to drive a motor vehicle subject to the same conditions as a provisional licence holder and to add a Community licence to the list of acceptable documents to demonstrate eligibility to take a driving 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 the negative 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 The issue of driving licences and the conditions that must be met to obtain and retain a driving licence are covered in domestic legislation in Part III of the Road Traffic Act 1988 (“the RTA”). The Motor Vehicle (Driving Licences) Regulations 1999 (“the 1999 Regulations”) were made under Part III of the RTA. The Road Traffic Offenders Act 1988 (“the RTOA”) makes provisions in relation to road traffic offences including the disqualification of drivers.
- 4.2 The Directive provides for mutual recognition of driving licences between Member States of the European Union and European Economic Area and harmonisation of the licensing categories and driving test standards. The Parliamentary Scrutiny Committees considered an Explanatory Memorandum (15820/03) on the proposed directive at the beginning of 2004 and in December 2004 a supplementary

Memorandum with a revised Regulatory Impact Assessment was provided to the Committees to take into account negotiations with the Commission on the text. The House of Commons European Scrutiny Committee cleared the proposal from scrutiny on 12th January 2005, and the House of Lords Select Committee on the European Union cleared it on 20th January 2005. In June 2005 the Committees were informed that the Government intended to support the Common Position at the 27th June 2005 Transport Council.

- 4.3 The Directive was adopted at the end of 2006. Its provisions were required to be transposed into national law by 19th January 2011 and come into practical effect by 19th January 2013. While most of the provisions of the Directive are already contained in domestic legislation, further minor amendments are required and these are covered by these Regulations.

5. Extent and Territorial Application

- 5.1 This extent of this instrument is Great Britain.
- 5.2 The territorial application of this instrument is Great Britain.
- 5.3 Northern Ireland will be making its own legislation to further implement the requirements of the Directive.

6. European Convention on Human Rights

- 6.1 The Parliamentary Under Secretary of State for Transport, Lord Ahmad of Wimbledon, has made the following statement regarding Human Rights:
- “In my view the provisions of the Road Traffic Offenders Act 1988 and Motor Vehicles (Driving Licences) (Amendment) Regulations 2015, are compatible with the Convention rights.”

7. Policy background

What is being done and why

- 7.1 Driver licensing is regulated by European legislation and the Directive provides for the mutual recognition of driving licences between Member States. The Directive was originally transposed by the Motor Vehicles (Driving Licences) (Amendment) Regulations 2012 (S.I. 2012/977). It has been identified that the requirements of the Directive have not been clearly transposed, and these Regulations remedy this.
- 7.2 An individual holding a Community licence is entitled to drive on that Community licence in the UK without having to apply for a Great Britain or Northern Ireland licence. However, when a Community licence holder is disqualified in the UK that disqualification does not automatically apply in other Member States.
- 7.3 An individual who is disqualified from driving until they have passed an appropriate driving test is required to hold a valid licence entitling them to drive in the UK and produce, before the test, one of the following; a full or provisional Great Britain licence, a full or provisional Northern Ireland licence. A Community driving licence can only be used to take a driving test by an individual who is upgrading their driving entitlement. An individual who is taking an appropriate driving test after a period of disqualification is not upgrading their entitlement but is regaining entitlement lost due to disqualification.

- 7.4 The RTOA entitles a person, who is disqualified until they have passed an appropriate test to obtain and hold a provisional licence for the purpose of taking a test provided that they are normally resident in the UK. A Community licence holder, who is not normally resident in the UK, is unable to obtain a provisional driving licence to enable them to drive in the UK for the purpose of sitting an appropriate driving test. They would be unable to drive in the UK using their Community licence as it would not be valid during the period of disqualification.
- 7.5 Therefore amendments are being made to entitle a Community licence holder who is disqualified until they have passed an appropriate test to drive in Great Britain subject to the same conditions as a provisional licence holder. Additionally the changes will allow Community licence holders to take an appropriate test to regain their full driving entitlement using their Community licence.

Consolidation

- 7.6 There are no plans to consolidate the legislation amended by these Regulations.

8. Consultation outcome

- 8.1 The Department ran an informal consultation between September 2015 and October 2015 and consulted such representative organisations as the Department thought fit. Amongst the organisations contacted were the National Police Chiefs' Council (NPCC), Police Scotland, the Scottish Courts and Tribunal Service (SCTS), Her Majesty's Courts and Tribunal Services (HMCTS), the Magistrates Association and the Royal Society for the Prevention of Accidents (RoSPA).
- 8.2 A targeted, informal consultation process was considered appropriate because the proposed changes are minor and have very limited scope and impact. The purpose of the regulations is to ensure the requirements of the Directive are clearly transposed.
- 8.3 The Department received responses from NPCC, HMCTS, Police Scotland, the Crown Prosecution Service (CPS) and RoSPA. All the organisations that responded supported the proposal and agreed that the legislative amendments are appropriate.

9. Guidance

- 9.1 Information about these changes is available on the www.gov.uk website.

10. Impact

- 10.1 The impact on business, charities or voluntary bodies is considered to be negligible.
- 10.2 The impact on the public sector is considered to be negligible.
- 10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

- 11.1 The legislation does not apply to activities that are undertaken by small businesses.

12. Monitoring & review

- 12.1 The Department for Transport will monitor and review the policy.
- 12.2 The Department will carry out a review of regulations 37 to 39 of the 1999 Regulations and publish a report setting out the conclusions of the review every five years. This will include a review of the requirements which a candidate must satisfy

before they are entitled to sit a driving test. The initial report will be published before the 4th January 2021.

13. Contact

- 13.1 Jason Donovan at the Driver and Vehicle Licensing Agency, Telephone: 01792 786860 or email: Jason.donovan@dvla.gsi.gov.uk can answer any queries regarding the instrument.