

EXPLANATORY MEMORANDUM TO
THE MOTOR CARS (DRIVING INSTRUCTION) (AMENDMENT) REGULATIONS
2015

2015 No. 952

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 These Regulations amend the Motor Cars (Driving Instruction) Regulations 2005 to update them following changes made by the Deregulation Act 2015 to the Road Traffic Act 1988 (“the 1988 Act”) which remove the separate category of “disabled driving instructor”.

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

- 3.1. These Regulations were made on the same day that the Deregulation Act 2015 received Royal Assent. These Regulations are made under pre-existing powers in the Road Traffic Act 1988 and additional powers conferred by Schedule 2 of the Deregulation Act which, in accordance with section 115(2)(e) of that Act, comes into force on Royal Assent for the purpose of making secondary legislation under those provisions. Royal Assent was obtained on Thursday the 26th March 2015 with Parliament being prorogued later that day, it was therefore necessary to take the unusual step of making the Order on the same day as Royal Assent in order to ensure it could be properly laid before Parliament in advance of dissolution.

- 3.2 There is a small risk that there will not be 21 sitting days between the laying of this instrument and its coming into force date as we cannot predict with certainty when a new government will be formed following the election. However, given the reliance on Royal Assent for the new powers in the Deregulation Act, we were unable to make this instrument at any earlier date.

4. **Legislative Context**

- 4.1 Part V of the 1988 Act, sets out the requirements that apply to the delivery of driving instruction in Great Britain. 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 Driver and Vehicle

Standards Agency (“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 amended by these Regulations.

4.2 The Deregulation Act 2015 (c. 20) made changes to Part V of the 1988 Act to remove the separate category of “disabled driving instructor” and the different qualification process that existed for persons with certain disabilities.

5. Territorial Extent and Application

5.1 The Motor Cars (Driving Instruction) (Amendment) Regulations 2015 apply to 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 The provision of car driving instruction for payment has been a regulated activity for around forty years. Historically, individuals holding a medically restricted driving licence, owing to a disability, could not qualify to become Approved Driving Instructors (ADIs). This barrier to entering the ADI industry was removed in 1996 through amendments to the Road Traffic Act 1988. Instructors with restricted licences could then register as ‘Disabled ADIs’ subject to taking an additional emergency control assessment (ECA) prior to qualifying.

7.2 In the years since the changes were introduced DVSA has found no evidence to suggest that ‘Disabled ADIs’ pose a greater road safety risk than any other ADIs. It became apparent that the requirement for disabled instructors to take the ECA was an unnecessary burden as an instructor’s competence in taking control of a car in an emergency can be assessed during the standard ADI qualification process. So provisions were introduced into the Deregulation Act 2015 which would amend the Road Traffic Act 1988 to remove the separate category of “disabled driving instructor” and provide for a single qualification process for all instructors.

7.3 As part of the Deregulation Act 2015 changes, passing the ECA will instead become a requirement which the Registrar may impose on any driving instructor, whether qualified or not. This requirement, however, can only be imposed where the Registrar has reasonable grounds to believe the intervention competency is lacking.

7.4 In order to implement the changes contained in the Deregulation Act 2015 amendments need to be made to the Motor Cars (Driving Instruction) Regulations 2005.

These amendments are largely consequential to those made in the Deregulation Act 2015, but also include a small number of substantive provisions described below where certain matters needed to be prescribed to allow for effective implementation of that Act.

7.5 Previously ECAs could only be undertaken in an automatic car as only people who were medically restricted to driving automatic cars could be required to take an ECA. As the variety of people who could potentially take an ECA has increased by the changes in the Deregulation Act 2015, the appropriate class of vehicle in which the ECA was to be taken needed to be prescribed. These Regulations now specify that an ECA must be taken in a manual transmission car where the person taking the ECA has a licence allowing them to drive vehicles with manual transmission and will be taken in an automatic car where a person has an automatic-only licence.

7.6 Certain time limits also need to be prescribed for the new ECA process. These regulations prescribe that, where an instructor is required to pass an ECA during the term of their trainee licence or ADI registration they must do so within a two-month period. These Regulations also prescribe the time an instructor must wait between failing an ECA and taking a re-sit; the ECA could possibly apply to fully qualified ADIs, as well as trainee instructors, a number of different time limits to reflect the different circumstances have been prescribed.

7.7 These Regulations also make it an additional condition for holding a trainee licence that a trainee instructor must take an ECA if the Registrar requires them to do so – this mirrors a similar requirement for qualified ADIs that is contained in the Deregulation Act 2015 amendments.

Consolidation

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

8. Consultation outcome

8.1 No formal consultation was undertaken specifically on these amendments as there is no statutory requirement for this and they are technical and relatively minor amendments which are largely consequential on provisions of the Deregulation Act which were scrutinised by Parliament.

8.2 A consultation exercise was conducted on the overall policy of removing the separate category of “disabled driving instructor”. DVSA wrote to 80 stakeholder organisations; 6 responses were received and all agreed with the proposals.

9. Guidance

9.1 Guidance for potential and registered ADIs will be disseminated through the Government digital channels (gov.uk) and through DfT/DVSA’s social media and email alert services.

10. Impact

10.1 There is a decrease in burdens on business and no net cost is created. There is no impact on charities or voluntary bodies.

10.2 There is no net cost to the public purse.

10.3 A separate Impact Assessment has not been produced for the amendments contained in this instrument. However, an Impact Assessment has been produced for the policy of removing the separate category of “disabled driving instructor” as a whole. This Impact Assessment accompanies this memorandum and is published alongside the Explanatory Memorandum on the [legislation.gov.uk](https://www.legislation.gov.uk) website.

11. Regulating small business

11.1 The legislation applies to small and micro businesses.

11.2 The policy removes burdens on business so it is not appropriate to exempt small and micro-businesses.

12. Monitoring & review

12.1 No separate monitoring is required for these amendments – the Order makes amendments that are largely consequential to the changes made by the Deregulation Act 2015. The amendments made by this SI will be considered as part of the post-implementation review of the Deregulation Act 2015 changes to the 1988 Act that will take place in 2022.

13. Contact

Adam Peters at the Driver and Vehicle Standards Agency tel: 0115 936 6093 or email: adam.peters@dsa.gsi.gov.uk - can answer any queries regarding the instrument.