

EXPLANATORY MEMORANDUM TO
THE ROAD TRAFFIC ACT 1988 (MOTOR RACING) (ENGLAND) REGULATIONS
2017

2017 No. 390

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 For a race or trial of speed between vehicles to lawfully take place on a public way, the promoter of the event must first obtain a permit issued by a motor sport governing body authorised to issue such permits, before making an application to a highway authority for a motor race order. These Regulations authorise two motor sport governing bodies: The Motor Sports Association (“MSA”) and The Auto Cycle Union (“ACU”) to issue permits to persons wishing to promote a race or trial of speed on a public way in England.

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 Sections 12A to 12I were added to the Road Traffic Act 1988 (the “RTA”) by the Deregulation Act 2015 (the “DA”) and have been commenced before these Regulations come into force. It is an offence, under section 12 RTA, to promote or take part in a race or trial of speed between motor vehicles on a public way. New section 12E of the RTA provides that, subject to certain conditions, a person promoting, participating in, or acting as an official in relation to, such a race or trial of speed on a public way in England and Wales, will not be guilty of an offence under section 12 of the RTA, where a motor race order has been granted in respect of the event by a highway authority. A person may not, however, apply for a motor race order under section 12C of the RTA, until that person has been granted a permit issued in accordance with section 12B of the RTA.
- 4.2 S.12B(1) of the RTA provides that a person wishing to promote a race or trial of speed on a highway may apply for a permit to a motor sport governing body authorised to issue permits in respect of races or trials of speed of that kind. The motor sport governing body must be authorised to issue permits, by regulations made by the appropriate national authority. The appropriate national authority is defined, in section 12B(9) of the RTA, as, in relation to England, the Secretary of State.

- 4.3 Section 12B(6) of the RTA requires the Secretary of State to list the motor sport governing bodies authorised to issue permits for the purposes of section 12B.
- 4.4 These Regulations therefore list MSA and ACU as authorised to issue permits for the purposes of section 12B of the RTA.

5. Extent and Territorial Application

- 5.1 The extent of this instrument is England and Wales.
- 5.2 The territorial application of this instrument is England.

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 Previously, motor-racing events on a public way in Great Britain could only lawfully take place where provision for the event was made in a local Act of Parliament.
- 7.2 Very few such Acts of Parliament have ever been passed, and therefore very few motor racing events have taken place on British roads. It is likely that the need for an Act of Parliament for each new event acted as a deterrent to those who might otherwise have sought to organise such events.
- 7.3 The Government therefore sought, with the amendment to the RTA by the DA, to provide a more efficient and accessible process for enabling motor sport events to take place on closed roads, with the policy aim of promoting British motor sport.
- 7.4 Highway authorities have existing powers to close roads for the purpose of sporting events or entertainment taking place on the road. With the amendment of the RTA, a motor racing event can now lawfully take place on a public way in England and Wales, when a motor race order has been granted by the local traffic authority in respect of the event. The effect of a motor race order is that persons participating in the event will not commit an offence under section 12 of the RTA, and also that certain provisions of road traffic legislation will not apply to participants or officials involved in the race. Such provisions are those which, if in force, would make it impossible for the race legally to take place, for example provisions containing offences in relation to speed restrictions and dangerous driving.
- 7.5 It is expected that, going forward, approximately 72 events authorised under this new process will take place each year in England.
- 7.6 Under this new process, those wishing to promote a motor racing event must apply for a permit from a motor sport governing body, before making an application to a highway authority for a motor race order.
- 7.7 The reason for requiring this two stage process is that motor sport governing bodies, as a result of their experience in authorising motor sport events, are well- equipped to assess, in consultation with other interested parties, a promoter's financial, insurance, safety and other arrangements for a proposed race, and therefore whether a permit should be issued. The highway authority, with its knowledge of and involvement in

the local area, will be well-equipped to then consider the likely impact of the event on the local area, and therefore whether the event should go ahead.

- 7.8 ACU and MSA are listed for the purposes of issuing permits under section 12B because they already have considerable experience of authorising motor sport events. MSA is also the sole national governing body for four-wheel motor sport in the UK, as recognised by the world governing body for motor sport, the Fédération Internationale de l'Automobile; and ACU is the National Governing Body for motorcycle sport in the British Isles (less Northern Ireland) as recognised by the world governing body for motorcycle sport, the Fédération Internationale de Motocyclisme.
- 7.9 The proposal that MSA and ACU should be the bodies able to issue motor sport permits was also the subject of one of the questions in DCMS's consultation in spring 2014: it was overwhelmingly accepted.
- 7.10 Before granting a permit for a motor racing event or trial of speed, a motor sport governing body named in the Regulations must consult appropriate bodies, including the highway authority, local authority and police authority for each area in which the event is to take place.
- 7.11 A motor sport governing body must issue a permit where it is satisfied that the applicant has the necessary financial and other resources for the event; that he will arrange appropriate insurance cover; and that the application contains the necessary details of all safety and other arrangements proposed for the event. The permit issued by the motor sport governing body must specify any route to be followed; the arrangements for the approval of drivers and vehicles involved in the event; and the arrangements to be made in respect of insurance for the event.

Consolidation

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

8. Consultation outcome

- 8.1 In 2014 the Department for Culture, Media and Sport carried out a public consultation into the proposals to allow motor racing on the highway, including the proposal that the two bodies named in these Regulations be the ones authorised to issue permits for the purposes of section 12B of the RTA, before an application can be made to a traffic authority for a motor race order. The consultation lasted for six weeks and 6077 responses were received. Public support for the proposals was overwhelming and in its response to the consultation the Government stated that it would proceed with all the proposals set out in the consultation except one, which was concerned with the involvement of the Sports Ground Safety Authority. The Government's response to the consultation was published on 11th July 2014 and may be seen at <https://www.gov.uk/government/consultations/proposal-to-authorise-motor-sport-events-on-public-roads>.

9. Guidance

- 9.1 The Government has not produced guidance on the procedure for applying for a permit and a Motor Race Order. However, it is anticipated that the motor sport governing bodies authorised by these Regulations to issued permits in England will provide information and guidance to organisers of motor sport events, which will be published on their websites

10. Impact

- 10.1 It is not anticipated that the Regulations will have any impact on business, charities or voluntary bodies. However, the races themselves may impact on such bodies in terms of the potential losses that may be suffered by those with an office located on a road which is closed to enable a motor sport event to take place. The impact would be if the office were forced to close, or suffered a loss of customers, for the duration of the road closure, because workers, volunteers or customers were unable to gain access to the building.
- 10.2 It is expected that, going forward, approximately 72 motor sport events will take place in England under this legislation each year. However, it is likely that, of this figure, most will be small-scale events, which may in fact form part of larger local festivals and other events, for which a road would, in any event, have been closed.
- 10.3 In addition, it is anticipated that some (but probably not all) losses by individual businesses due to new events would accrue as benefits to other businesses or to the same business at a different time. However, small businesses in the areas hosting new events are likely to profit from the events on average.
- 10.4 There is no impact on the public sector.
- 10.5 A Validation Impact Assessment is submitted with this memorandum and will be published alongside the Explanatory Memorandum on the legislation.gov.uk website.

11. Regulating small business

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

12. Monitoring & review

- 12.1 These Regulations do not make regulatory provisions which relate to business activity, and there are no specific plans to monitor or review the appointment of these particular bodies to issue motor race permits. However, should it become apparent to the Department that either body is not issuing permits in compliance with the requirements set out in section 12B of the RTA, the Department will take steps to review the authorisation of that body to issue permits.

13. Contact

- 13.1 Charlotte Bradford at the Department for Transport, Telephone: 020 7944 2117 or email: charlotte.bradford@dft.gsi.gov.uk can answer any queries regarding the instrument.