

[DRAFT] EXPLANATORY MEMORANDUM TO
THE MOTOR VEHICLES (CONSTRUCTION AND USE) (AMENDMENT)
REGULATIONS (NORTHERN IRELAND) 2026

2026 No.

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department for Infrastructure to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under Articles 55(1), (2)(b) and (6) and 110(2) of the Road Traffic (Northern Ireland) Order 1995 and is subject to the negative resolution procedure.

2. Purpose

- 2.1. The main purpose of the Regulations covered by this Memorandum is to amend the Motor Vehicles (Construction and Use) Regulations (Northern Ireland) 1999 (“the 1999 Regulations”) to allow for the introduction of a Particle Number exhaust emissions test (“PN test”), as an alternative to the current exhaust gas opacity test. The PN test is a more advanced and effective test for modern diesel engine emissions and will be used for light diesel vehicles first registered on or after 1st January 2013 and for heavy diesel vehicles first registered on or after 1st January 2014, ultimately preventing the use of those vehicles detected as producing excessive hazardous pollutants.

3. Background

- 3.1. DVA introduced a diesel emissions smoke test for cars, light and heavy goods vehicles and buses in March 2006. However, for health and safety reasons related to the build-up of fumes in the test halls and in consultation with the Health and Safety Executive for Northern Ireland, the diesel smoke test for cars and light goods vehicles was suspended in June 2006.
- 3.2. DVA currently conducts a fully compliant diesel emissions test on all heavy goods vehicles, buses and vans over 3,500kgs, and a partial diesel emissions test for cars and light goods vehicles. The reintroduction of a diesel smoke test for cars and light goods vehicles under 3,500kgs would require a substantial capital investment in the vehicle testing estate to create a safe environment for staff and customers, to enable the test to be conducted. The introduction of PN testing provides a more effective alternative and allows DVA to resume testing modern light diesel vehicles subject to MOT and to conduct similar emissions tests on modern light and heavy diesel vehicles subject to roadside enforcement checks.

- 3.3. In March 2023, the European Commission published Commission Recommendation (EU) 2023/688 on PN testing. The Commission highlighted the deficiencies in subjecting younger vehicles to a diesel smoke test and recommended the alternative PN test for light diesel vehicles first registered on or after 1st January 2013 and for heavy diesel vehicles first registered on or after 1st January 2014. This recommendation was the first step towards harmonisation of PN testing within the Union. The use of PN testing at annual vehicle inspections was introduced in Belgium in July 2022, in the Netherlands, Switzerland and Germany in 2023 and in Latvia at the start of 2026.
- 3.4. The new PN test readily identifies those modern vehicles that produce hazardous levels of particulate matter if not properly maintained and will check for the correct fitment and operation of emissions control equipment including diesel particulate filters (“DPFs”). A DPF is a device fitted within the exhaust pipe of a diesel vehicle which filters hazardous particulate matter from exhaust gases. It does this by trapping solid particles while letting gaseous components to escape. Poor maintenance of DPFs can affect vehicle performance and ultimately lead to the need for repairs. This has led to some diesel vehicle owners removing (or bypassing) their DPFs to avoid repair costs, which is illegal and will lead to excessive air pollution.
- 3.5. The introduction of the PN test for light diesel vehicles first registered on or after 1st January 2013 and for heavy diesel vehicles first registered on or after 1st January 2014 as an alternative to the smoke opacity test, will allow for those vehicles which have excessive emissions to be identified. PN testing will also be conducted at the roadside on any light and heavy diesel vehicles, as required, to check the effective operation of the vehicles emission control systems including private cars, taxis, goods vehicles and buses.
- 3.6. Accordingly, these Regulations amend Part II of Schedule 10 to the 1999 Regulations to substitute paragraph 8 to specify PN exhaust emission test limits, as an alternative to the specified coefficient of absorption test limits for light diesel vehicles first registered on or after 1st January 2013 and for heavy diesel vehicles first registered on or after 1st January 2014.

4. Consultation

- 4.1. The Department conducted a consultation exercise from 24th July to 18th September 2024, and the synopsis was published on 18th November 2024. Whilst there were a significant number of negative responses from individuals, the responses from organisations representing many thousands of stakeholders, was particularly positive in their collective support for the proposed introduction of PN testing. PN testing is regarded as making a positive contribution to improving air quality and represents a more cost-effective means of delivering MOT emissions tests on light vehicles fitted with a modern diesel engine.

5. Equality Impact

- 5.1. In accordance with its duty under section 75 of the Northern Ireland Act 1998, the Department conducted a screening exercise on the proposals and concluded that the measures would not affect any group disproportionately. In light of this the Department considered that an equality impact assessment was not necessary.

6. Regulatory Impact

- 6.1. DVA carried out a Regulatory Impact assesment which indicated that there were no undue impacts arising from the introduction of PN testing for modern diesel vehicles.

7. Financial Implications

- 7.1. The cost for new PN testing equipment is estimated at £0.5 million. DVA has sufficient cash reserves to cover this cost and therefore, there are no financial implications for the Department associated with the proposals. Businesses involved in vehicle servicing and MOT preperation will likley pass the cost of procuring PN testing equipment onto the customers. While it is anticipated that a percentage of light vehicles will fail the PN test and therefore attract additional retest fees, it is likley that the volume of the defective vehicles and therefore retest fees will fall over time.

8. Section 24 of the Northern Ireland Act 1998

- 8.1. The Department is satisfied that the proposed legislation is compatible with section 24 of the Northern Ireland Act 1998.

9. European Union Withdrawal and Windsor Framework Implications

- 9.1. The Regulations do not relate to the withdrawal of the United Kingdom from the European Union.
- 9.2. The Regulations do not engage the Windsor Framework.

10. Parity or replicatory measure

- 10.1. There is currently no equivalent legislation in Britain.

11. Additional information

- 11.1. Not applicable.