

## SCHEDULES

### SCHEDULE 2

#### EXISTING HEAVY GOODS VEHICLES AND PUBLIC SERVICE VEHICLES DRIVERS' LICENCES

**Modifications etc. (not altering text)**

- C1** Sch. 2: transfer of functions (8.5.2016) by [The Departments \(Transfer of Functions\) Order \(Northern Ireland\) 2016 \(S.R. 2016/76\)](#), art. 1(2), **Sch. 5 Pt. 2** (with art. 9(2))

### PART I

#### EXISTING HEAVY GOODS VEHICLES AND PUBLIC SERVICE VEHICLES DRIVERS' LICENCES

##### *Preliminary*

**1.** In this Part—

“conduct” means—

- (a) in relation to the holder of an existing heavy goods vehicle licence, his conduct as a driver of a motor vehicle, and
- (b) in relation to the holder of an existing public service vehicle licence, his conduct both as a driver of a motor vehicle and in any other respect relevant to his holding a public service vehicle licence,

including, in either case, such conduct in Great Britain;

“existing licence” means a licence to drive heavy goods vehicles or public service vehicles (as the case may be) continued in force by Article 4(2), and “existing heavy goods vehicle licence” and “existing public service vehicle licence” shall be construed accordingly;

“full”, in relation to an existing heavy goods vehicle licence, indicates a licence other than a provisional licence;

“heavy goods vehicle” has the same meaning as it had for the purposes of Article 79 of the principal Order before its repeal by Article 4 and “large goods vehicle” has the same meaning;

“notice” means notice in writing and “notify” shall be construed accordingly;

“passenger-carrying vehicle” has the same meaning as it has in Article 78;

“prescribed”, unless the context requires otherwise, means prescribed by regulations made under paragraph 7; and

“public service vehicle” has the same meaning as it has for the purposes of Article 2(2) of the principal Order.

### **Conditions of existing heavy goods vehicles licences**

2.—(1) An existing heavy goods vehicle licence issued as a provisional licence, or an existing full heavy goods vehicle licence held by a person under the age of 21, is subject to the prescribed conditions, and if the holder of the licence fails, without reasonable excuse, to comply with any of the conditions he is guilty of an offence.

(2) It is an offence for a person knowingly to cause or permit another person who is under the age of 21 to drive a heavy goods vehicle of any class in contravention of any prescribed conditions to which that other person's licence is subject.

(3) A person shall be liable on summary conviction of an offence under sub-paragraph (1) or (2) to a fine not exceeding level 3 on the standard scale.

### **Duration of existing licences**

3.—(1) An existing heavy goods vehicle licence shall, unless previously revoked, suspended or surrendered, continue in force for 3 years from the date on which it is expressed to take effect.

(2) Subject to sub-paragraph (3), a provisional heavy goods vehicle licence shall, unless previously revoked, suspended or surrendered, continue in force for 6 months from the date on which it is expressed to take effect.

(3) Sub-paragraph (2) does not apply to a heavy goods vehicle licence treated as a provisional licence by virtue of regulations under paragraph 7.

(4) An existing public service vehicle licence shall, unless previously revoked, suspended or surrendered, continue in force for 5 years from the date on which it is expressed to take effect.

(5) If on the date on which an application is made under Part II of the principal Order for a licence to drive large goods vehicles or passenger-carrying vehicles, the applicant is the holder of an existing heavy goods vehicle licence or an existing public service vehicle licence, as the case may be, his existing licence shall not expire in accordance with the foregoing provisions before the application is disposed of.

### **Revocation or suspension of existing licences**

4.—(1) An existing heavy goods vehicle licence or public service vehicle licence—

(a) must be revoked—

(i) if its holder develops such physical disability as may be prescribed, or

(ii) if there come into existence, in relation to its holder, such circumstances relating to his conduct as may be prescribed;

(b) must be revoked or suspended if its holder's conduct or physical disability is such as to make him unfit to hold such a licence;

and where the licence is suspended under paragraph (b) it shall during the time of suspension be of no effect.

(2) Where it appears that the conduct or physical disability of the holder of an existing licence falls within both sub-paragraph (1)(a) and sub-paragraph (1)(b), proceedings shall be taken or continued under sub-paragraph (1)(a) and not sub-paragraph (1)(b) and accordingly the power to suspend the licence, rather than revoke it, shall not be available.

(3) Regulations made for the purposes of sub-paragraph (1)(a)—

(a) may make different provision for heavy goods vehicles and for public service vehicles and for different descriptions of persons; and

(b) shall provide for the determination of the cases in which, under paragraph 5, a person whose licence has been revoked is to be disqualified indefinitely or for a period and, if for a period, for the determination of the period.

(4) Where the Department determines that the holder of the licence is not fit to hold a heavy goods vehicle licence or a public service vehicle licence, as the case may be, it shall also determine whether the conduct of the holder of the licence is such as to require the revocation of his licence or only its suspension; and, if the former, whether the holder of the licence should be disqualified under paragraph 5(2)(a) (and, if so, for what period) or under paragraph 5(2)(b).

(5) The Department may require the holder of the licence to furnish it with such information as it may require and may, by notice to the holder, require him to attend before it at the time and place specified by the Department to furnish the information and to answer such questions (if any) relating to the subject matter of the reference as the Department may put to him.

(6) If the holder of the licence fails without reasonable excuse to furnish information to or to attend before or answer questions properly put by the Department when required to do so under sub-paragraph (5), the Department may, if it thinks fit, revoke the licence or suspend it for such period as it thinks fit.

(7) The Department shall notify the holder of the licence of its determination.

#### **Disqualification on revocation of existing licences**

5.—(1) Where in pursuance of paragraph 4(1)(a) the Department revokes a person's existing licence, it must, in accordance with the regulations made for the purposes of that paragraph, order that person to be disqualified indefinitely or for the period determined in accordance with the regulations.

(2) Where in pursuance of paragraph 4(1)(b) the Department revokes an existing licence, it may—

(a) order the holder to be disqualified indefinitely or for such period as it thinks fit, or

(b) except where the licence is a provisional licence, if it appears to the Department that, owing to the conduct or physical disability of the holder of the licence it is expedient to require him to comply with the prescribed conditions applicable to provisional licences under Part II of the principal Order until he passes the prescribed test of competence under that Part to drive large goods vehicles or passenger-carrying vehicles of any class, order him to be disqualified for holding or obtaining a full licence to drive until he passes such a test.

(3) If, while the holder of an existing licence is disqualified under sub-paragraph (1), the circumstances prescribed for the purposes of paragraph 4(1)(a)(ii) cease to exist in his case, the Department must, on an application made to it for the purpose, remove the disqualification.

(4) Where the holder of an existing licence is disqualified under sub-paragraph (2)(a), the Department may, in such circumstances as may be prescribed, remove the disqualification.

(5) Where the holder of an existing full licence is disqualified under sub-paragraph (2)(b), the Department must not afterwards grant him a full licence under Part II of the principal Order to drive large goods vehicles or passenger-carrying vehicles of any class unless satisfied that he has since the disqualification passed the prescribed test of competence under that Part to drive vehicles of that class, and until he passes that test any such full Part II licence obtained by him shall be of no effect.

(6) So long as the disqualification under sub-paragraph (1) or (2)(a) of the holder of an existing licence continues in force, no licence under Part II of the principal Order to drive large goods vehicles or passenger-carrying vehicles (as the case may be) shall be granted to him and any such licence obtained by him shall be of no effect.

(7) In this paragraph “disqualified”

(a) in a case of revocation on the ground of the conduct of the holder of the licence as a driver, means disqualified for holding or obtaining a licence under Part II of the principal Order

to drive large goods vehicles of the prescribed classes and passenger-carrying vehicles of the prescribed classes; and

- (b) in a case of revocation of a public service vehicle licence on the ground of the conduct of the holder otherwise than as a driver, means disqualified for holding or obtaining a licence under Part II of the principal Order to drive passenger-carrying vehicles of the prescribed classes.

### Appeals relating to existing licences

6.—(1) The holder of an existing licence who is aggrieved by the Department's—

- (a) suspension or revocation of his licence under paragraph 4, or
- (b) ordering of disqualification under paragraph 5,

may, after giving to the Department notice of his intention to do so, appeal to a court of summary jurisdiction<sup>F1</sup>....

(2) On an appeal under sub-paragraph (1)(a) the Department shall be respondent.

(3) On any appeal under sub-paragraph (1) the court may make such order as it thinks fit and the order shall be binding on the Department.

**F1** Words in Sch. 2 para. 6(1) repealed (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 100, Sch. 9 Pt. 1 (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3)

### Regulations

7.—(1) The Department may make regulations for prescribing anything which may be prescribed under this Part of this Schedule and generally for the purpose of carrying its provisions into effect.

(2) Without prejudice to section 17 of the Interpretation Act (Northern Ireland) 1954 regulations under this paragraph may in particular—

- (a) provide that a full licence to drive heavy goods vehicles of a particular class shall also be treated for the purposes of this Part of this Schedule as a provisional licence to drive heavy goods vehicles of another prescribed class;
- (b) make provision with respect to the custody and production of existing licences and requiring, and regulating the procedure on, the surrender or production to the Department or any constable of existing licences which have been revoked or suspended or have expired;
- (c) provide for the issue by the Department of duplicate licences in place of existing licences lost or defaced on payment of such fee as may, with the approval of the Department of Finance and Personnel, be prescribed;
- (d) provide that a person who contravenes or fails to comply with any specified provision is guilty of an offence and that he shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale; and
- (e) provide that this Part of this Schedule shall not apply to prescribed classes of heavy goods vehicle or of public service vehicle either generally or in such circumstances as may be prescribed.

(3) Regulations made under this paragraph shall be subject to negative resolution.

### **Provisions as to existing Great Britain licences**

**8.—(1)** In this paragraph “existing Great Britain licence” means a licence specifically to drive heavy goods vehicles or public service vehicles granted under the law of Great Britain.

(2) The Department may exercise as respects Northern Ireland the like power of revoking or suspending any existing Great Britain licence and of making an order under paragraph 5(2) as is conferred on it in relation to an existing heavy goods vehicle licence or public service vehicle licence by paragraphs 4(1)(b) and 5(2), and the provisions of paragraphs 4(1) and (3) to (7) and 5(2) and (4) to (7) and the power to make regulations under paragraph 7(2)(b) shall have effect accordingly.

(3) Where an existing Great Britain licence which has been revoked is surrendered to the Department in pursuance of regulations made under paragraph 7(2)(b), the Department shall send it to the Secretary of State together with particulars of the revocation.

(4) A holder of an existing Great Britain licence who is aggrieved by the revocation or suspension of the licence or the ordering of disqualification by virtue of sub-paragraph (2) shall have the like right of appeal as is conferred by paragraph 6 except that an appeal brought by virtue of this sub-paragraph shall, if the appellant is not resident in Northern Ireland, lie to such court of summary jurisdiction as may be prescribed by magistrates' courts rules.

**Changes to legislation:**

There are currently no known outstanding effects for the The Road Traffic (Amendment) (Northern Ireland) Order 1991, Cross Heading: Preliminary.