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## STATUTORY INSTRUMENTS

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# 1981 No. 154

## Road Traffic (Northern Ireland) Order 1981

### PART II

#### GENERAL PROVISIONS RELATING TO LICENSING OF DRIVERS OF VEHICLES

##### *Tests*

##### **Tests of competence to drive**

5.—(1) A licence authorising the driving of motor vehicles of any class shall not be granted to any person unless he<sup>F1</sup> meets the relevant residence requirement and satisfies the Department]

(a) that at some time during the period of 2 years ending with the date the application is made but not earlier than the appointed day he has passed—

(i) the test of competence to drive prescribed by virtue of paragraph (3), or

(ii) a Great Britain test of competence to drive which corresponds to such a test, or

(iii) a test of competence which under paragraph (7) is a sufficient test;

or that, if it is available to him, he satisfies the alternative requirement of Article 6; or

(b) that at some time not earlier than the appointed day he has held—

(i) a full licence authorising the driving of vehicles of that class, or

(ii) a full Great Britain licence authorising the driving of vehicles of a class corresponding to the class;

or that, if it is available to him, he satisfies the alternative requirement of Article 6; or

(c) that at some time during the period of 2 years ending with the date the application is made he has passed a test of competence to drive vehicles of that or a corresponding class<sup>F1</sup>. . . for the purpose of obtaining a British forces licence; or

(d) that at some time not earlier than the appointed day he has held a full British external licence or a full British forces licence to drive vehicles of that or a corresponding class or that, if it is available to him, he satisfies the alternative requirement of Article 6; or

(e) that at some time during the period of 2 years ending with the date the application is made he has passed a test of competence to drive vehicles of that or a corresponding class conducted under the law<sup>F1</sup>. . . of Gibraltar<sup>F1</sup>. . . ; or

[<sup>F1</sup>(ea) that either at the time of the application for the licence he holds a Community licence authorising the driving of vehicles of that or a corresponding class or at any time he has held such a Community licence; or]

[<sup>F1</sup>(f) that, at the time of the application for the licence, he holds an exchangeable licence authorising the driving of vehicles of that or a corresponding class.]

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This paragraph is subject to the provisions of this Part as to provisional licences and to the provisions of any regulations made by virtue of Article 19C(1)(g).

[<sup>F1</sup>(1A) An applicant meets the relevant residence requirement referred to in paragraph (1) if on the date the application for the licence is made—

- (a) in a case where he satisfies the Department in respect of paragraph (1)(ea), he is normally resident in the United Kingdom or has been attending a course of study in the United Kingdom during the period of six months ending on that date;
- (b) in a case where he satisfies the Department in respect of paragraph (1)(f), he is normally resident in Northern Ireland but has not been so resident for more than the prescribed period; and
- (c) in any other case, he is normally resident in Northern Ireland]

(2) For the purposes of paragraph (1)—

[<sup>F1</sup>(a) a licence which has been revoked under Article 15(5) or under any corresponding provision of—

- (i) the law of Great Britain,
- (ii) the relevant external law, or
- (iii) the law of an EEA State other than the United Kingdom,

as a licence granted in error shall be disregarded for the purposes of sub-paragraph (b), (d) or (ea) (as the case may be) or that paragraph;]

*Sub-para. (b) rep. by SR 1996/426*

- (c) a British external licence to drive any class of goods vehicle or any class of passenger-carrying vehicle is to be disregarded for the purposes of sub-paragraph (d) of that paragraph unless the Department, by order, designates the relevant external law under which it is granted as one which makes satisfactory provision for the granting of such licences.

[<sup>F2</sup>(3) Regulations may make provision with respect to—

- (a) the nature of tests of competence to drive for the purposes of this Article [<sup>F3</sup> and Article 41 of the Offenders Order (disqualification)],
- (b) the qualifications, selection and appointment of persons by whom they may be conducted and the revocation of an appointment,
- (c) evidence of the results of such tests,

and generally with respect to such tests.

(4) In particular, regulations may, without prejudice to the generality of paragraph (3), provide—

- (a) for requiring a person submitting himself for a test to provide a vehicle for the purposes of the test, in the case of prescribed classes of goods vehicle, loaded or unloaded as may be prescribed and, if requirements as respects loading are prescribed, loaded in accordance with the requirements,
- [<sup>F1</sup>(aa) for requiring a person submitting himself for a test to have been normally resident in Northern Ireland or the United Kingdom for such period ending on the date of his appointment for the test as may be prescribed,]
- (b) for requiring a fee, of such amount as may be specified in the regulations to be paid by a person who submits himself for a test or applies for an appointment for a test,
- (c) for ensuring that a person submitting himself for a test and failing to pass that test shall not be eligible to submit himself for another test by the same or any other person before

the expiration of a period specified in the regulations, except under an order made by a court under the power conferred by Article 7.

(5) If regulations make provision for a test of competence to drive to consist of separate parts, they may make for each part—

- (a) any provision that could be made for a test not consisting of separate parts, and
- (b) provision for the supply by the Department of forms for certificates evidencing the results and for charges to be made for the supply.

<sup>F4</sup>(6) Regulations may prescribe cases in which persons are exempt from the requirements imposed by paragraph (3); and the regulations may—

- (a) limit the exemption to persons in prescribed circumstances;
- (b) limit the exemption to a prescribed period;
- (c) attach conditions to the exemption; and
- (d) regulate applications for, and the issue and form of, certificates evidencing a person's exemption from that requirement.

(7) For the purposes of paragraph (1)(a)(iii) or Article 6(2)(b)(iii), a test of competence shall be sufficient for the granting of a licence authorising the driving of—

- (a) vehicles of any class, if at the time the test was passed it authorised the granting of a licence to drive,
- (b) vehicles of all classes which are designated by regulations as a group for the purposes of paragraph (1)(a) if at the time the test was passed it authorised the granting of a licence to drive vehicles of any class included in the group, and
- (c) vehicles of all classes included in another such group, if a person passing the test is treated by virtue of regulations made for the purposes of this sub-paragraph as competent also to drive vehicles of a class included in that other group.

(8) If vehicles of any classes are designated by regulations as a group for the purposes of paragraph (1)(b), a licence authorising the driving of vehicles of a class included in the group shall be deemed for the purposes of paragraph (1)(b)(i) or Article 6(4)(a) to authorise the driving of—

- (a) vehicles of all classes included in the group<sup>F1</sup> (except where regulations otherwise provide),] and
- (b) vehicles of all classes included in another such group, if a person holding the licence is treated by virtue of regulations as competent also to drive vehicles of a class included in that other group.

The reference in this paragraph to a licence does not include a licence which has been revoked in pursuance of Article 15(5).

(9) For the purposes of this Article and Article 4(1), an exchangeable licence issued in respect of a<sup>F1</sup> . . . country or territory shall not be treated as authorising a person to drive a vehicle of any class if—

- (a) the licence is not for the time being valid for that purpose, or
- (b) it was issued in respect of that class for a purpose corresponding to that mentioned in Article 13(2).

(10) A test of competence falling within sub-paragraphs (a)(ii), (c) or (e) of paragraph (1) shall be sufficient for the granting of a licence authorising the driving of—

- (a) vehicles of all classes designated by regulations as a group for the purposes of paragraph (1)(a), if<sup>F1</sup> (except where regulations otherwise provide)] at the time the test was passed it authorised the granting of a licence to drive vehicles of any class included in the group, or of any class corresponding to a class included in the group, and

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- (b) vehicles of all classes included in another such group, if a person passing a test of competence authorising the granting of a licence to drive vehicles of a class included in the group mentioned in sub-paragraph (a) is treated by virtue of regulations as competent also to drive vehicles of a class included in that other group.

(11) A full Great Britain licence, a full British external licence, a full British forces licence<sup>[F1]</sup>, a Community licence] or an exchangeable licence shall be treated for the purposes of sub-paragraph (b) (ii), (d)<sup>[F1]</sup>, (ea) or (f) (as the case may be) of paragraph (1) as authorising the driving of—

- (a) <sup>[F1]</sup>(except where regulations otherwise provide)] vehicles of all classes designated by regulations as a group for the purposes of paragraph (1)(b), if the licence authorises the driving of vehicles of any class included in the group, or any class corresponding to a class included in the group, and
- (b) vehicles of all classes included in another such group, if by virtue of regulations a person holding a licence authorising him to drive vehicles of any class included in the group mentioned in subparagraph (a) is treated as competent also to drive vehicles of a class included in that other group.

*Para. (12) rep. by SR 1996/426*

<b>F1</b>	SR 1996/426
<b>F2</b>	prosp. insertion by 1991 NI 3 as am. by SR 1996/426
<b>F3</b>	1996 NI 10
<b>F4</b>	prosp. insertion by 1991 NI 3

### The alternative requirements to those in Article 5

6.—(1) The alternative requirements referred to in Article 5(1) are the following.

(2) The requirement which is alternative to that specified in Article 5(1)(a) on an application by a person for a licence authorising the driving of motor vehicles of any class other than any class of goods vehicle or passenger-carrying vehicle prescribed for the purposes of paragraph (3)—

- (a) is available to that person if the application is made within the period of 10 years beginning with the appointed day, and
- (b) is that at some time before the appointed day and during the period of 10 years ending with the date the application is made he has passed—
  - (i) the test of competence to drive prescribed by virtue of Article 5(3) or a test of competence to drive which corresponds to such a test, or
  - (ii) a Great Britain test of competence to drive which corresponds to any test falling within (i), or
  - (iii) a test of competence which under Article 5(7) is a sufficient test or a test of competence to drive which corresponds to such a test.

(3) The requirement which is alternative to that specified in Article 5(1)(a) on an application by a person for a licence authorising the driving of any class of goods vehicle or passenger-carrying vehicle prescribed for the purposes of this paragraph—

- (a) is available to that person if the application is made within the period of 5 years beginning with the appointed day, and
- (b) is that at some time before the appointed day and during the period of 5 years ending with the date the application is made he has passed—
  - (i) a test of competence to drive a heavy goods vehicle or public service vehicle of a class corresponding to the class of vehicle to which his application relates, or

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(ii) a corresponding Great Britain test of competence to drive a heavy goods vehicle or public service vehicle of a class which corresponds to the class of goods vehicle or passenger-carrying vehicle to which his application relates.

(4) The requirement which is alternative to that specified in Article 5(1)(b) on an application by a person for a licence authorising the driving of motor vehicles of any class other than any class of goods vehicle or passenger-carrying vehicle prescribed for the purposes of paragraph (5) is that at sometime before the appointed day but not earlier than 1st January 1976 he has held—

- (a) a full licence authorising the driving of vehicles of a class corresponding to the class of motor vehicle to which his application relates, or
- (b) a full Great Britain licence authorising the driving of vehicles of a class corresponding to the class of motor vehicle to which his application relates.

(5) The requirement which is alternative to that specified in Article 5(1)(b) on an application by a person for a licence authorising the driving of any class of goods vehicle or passenger-carrying vehicle prescribed for the purposes of this paragraph is that at some time before the appointed day but not earlier than the beginning of the period of 5 years ending on that date he has held—

- (a) a full heavy goods vehicle or a public service vehicle driver's licence authorising the driving of vehicles of a class corresponding to the class of vehicle to which his application relates, or
- (b) a full Great Britain licence to drive heavy goods vehicles of a class corresponding to the class of vehicle to which his application relates or a Great Britain licence to drive public service vehicles of a class corresponding to the class of vehicle to which his application relates.

(6) The requirement which is alternative to that specified in Article 5(1)(d) on an application by a person for a licence authorising the driving of motor vehicles of any class—

- (a) is available to that person if the application is made within the period of 10 years beginning with the appointed day, and
- (b) is that at some time before the appointed day and during the period of 10 years ending with the date the application is made he has held a full British external licence or a full British forces licence to drive vehicles of that or a corresponding class.

(7) In this Article “heavy goods vehicle” has the same meaning as it had for the purposes of Article 79 before its repeal by Article 4 of the Road Traffic (Amendment) (Northern Ireland) Order 1991.

### **Review of conduct of test**

7.—(1) On the application of a person who has submitted himself for a test of competence to drive, a court of summary jurisdiction acting for the petty sessions district in which he resides may determine whether the test was properly conducted in accordance with regulations.

(2) The court may, if it appears that the test was not so conducted—

- (a) order that the applicant shall be eligible to submit himself for another test before the expiration of the period specified for the purposes of Article 5(4)(c), and
- (b) order that any fee payable by the applicant in respect of the test shall not be paid or, if it has been paid, shall be repaid.

(3) If regulations make provision for a test of competence to drive to consist of separate parts, this Article applies in relation to each part as well as in relation to the whole of the test.

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## Repayment of test fees

8. A fee paid in pursuance of regulations made by virtue of Article 5(4) on application for an appointment for a test may be repaid in the following cases and not otherwise—

- (a) if no such appointment is made, or an appointment made is subsequently cancelled by or on behalf of the Department;
- (b) if the person for whom the appointment is made gives such notice cancelling the appointment as may be prescribed for the purposes of this sub-paragraph by regulations;
- (c) if the person for whom the appointment is made keeps the appointment but the test does not take place, or is not completed, for reasons attributable neither to him nor to any vehicle provided by him for the purposes of the test; or
- (d) if an order for the repayment of the fee is made by the court under Article 7 pursuant to a finding that the test was not properly conducted in accordance with the regulations.

PROSPECTIVE

## [<sup>F5</sup>Approved test assistants

8A.—(1) The Department may make regulations permitting any person wishing to be accompanied at a relevant test by another person (a “test assistant”) to be so accompanied if—

- (a) he submits himself for the relevant test in any circumstances in which the Department considers it appropriate that he should be entitled to be so accompanied; and
- (b) the test assistant is approved in accordance with regulations made under this Article to accompany people at relevant tests in such circumstances in order to assist them in undergoing the relevant tests.

(2) The circumstances in which the Department considers it appropriate that a person should be entitled to be accompanied by a test assistant at a relevant test may include, for example, circumstances in which he is likely to have difficulty in hearing, understanding or responding to instructions or questions in the course of the relevant test without assistance.

(3) The regulations may make provision in relation to the approval of test assistants and may, in particular, include provision—

- (a) in relation to the making of applications for approval;
- (b) for the payment in respect of applications for approval, or in connection with approvals, of fees of a prescribed amount;
- (c) in relation to the period for which an approval is to have effect and withdrawing approval;
- (d) authorising the imposition of conditions on an approval;
- (e) for an appeal to lie to a court of summary jurisdiction acting for the petty sessions district in which the person resides against a refusal of an application for approval, the imposition of conditions on an approval or the withdrawal of approval;
- (f) prescribing circumstances in which an approved test assistant may not act as such;
- (g) as to the evidencing by persons of their status as approved test assistants;
- (h) authorising the Department to make available (with or without charge) information about approved test assistants.

(4) In this Article “relevant tests” means—

- (a) tests of competence to drive a motor vehicle prescribed by virtue of Article 5(3) of this Order or Article 41(5) of the Offenders Order;

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- (b) examinations of ability and fitness (or continued ability and fitness) to give driving instruction for which provision is made by virtue of Article 62 of the Order of 2007;
- (c) emergency control assessments under Article 65 of the Order of 2007.]

**F5** Art. 8A inserted (prosp.) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3)(4), **45**

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