

EXPLANATORY MEMORANDUM TO
THE MOTOR VEHICLES (DRIVING LICENCES) (AMENDMENT)
REGULATIONS (NORTHERN IRELAND) 2016

2016 No. 135

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department of the Environment to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under section 2(2) of the European Communities Act 1972 and Articles 5(3)(a), 5(3)(ba) and 19C(1) of the Road Traffic (Northern Ireland) Order 1981 and is subject to the negative resolution procedure.

2. Purpose

- 2.1. The purpose of the Statutory Rule (“SR”) covered by this Memorandum is to further transpose Directive 2006/126/EC of the European Parliament and of the Council of 20 December 2006 (“the Directive”) on driving licences, in Northern Ireland. The Directive sets out requirements that Member States must have in place for drivers to obtain driving licences. It also makes provision in relation to the validity and mutual recognition of driving licences across Member States.
- 2.2. The Regulations make amendments to existing legislation in relation to Community licence holders who have been disqualified from driving in Northern Ireland until they have passed an appropriate test and who are not normally resident in the United Kingdom. The amendments allow a Community licence holder who is disqualified to drive a motor vehicle subject to the same conditions as a provisional licence holder once their disqualification period has expired and add Community licences to the list of licences considered appropriate to demonstrate eligibility to take a driving test.

3. Background

- 3.1. There is provision for a person who has been disqualified from driving under Article 41 of the Road Traffic Offenders (Northern Ireland) Order 1996 (“the 1996 Order”) to apply for a provisional licence once their period of disqualification has expired. Once granted they are able to drive subject to the conditions of the provisional licence and therefore to prepare for and sit a driving test in order to regain their entitlement to drive. However, a provisional licence can only be granted to a person who meets the relevant residency requirements. The holder of a valid Community licence who is not normally

resident in the UK does not meet the residency requirements and therefore is unable to obtain a provisional licence.

- 3.2. In addition, a person sitting a driving test must produce an appropriate licence before the test. A Community licence was not considered to be an appropriate licence and so a Community licence holder was unable to use that licence in order to sit the required test. The result of this was that a Community licence holder who is disqualified under Article 41 of the 1996 Order until they have passed an appropriate test and who is not normally resident in the UK was unable lawfully to sit an appropriate driving test at the end of their period of disqualification.
- 3.3. Given these circumstances, Community licence holders disqualified in NI until they have passed an appropriate test were not only unable to drive in the UK using their otherwise valid Community licence, but were also unable to apply for a provisional licence or take an appropriate driving test at the end of their disqualification period. They would thus remain banned from driving in the UK indefinitely despite having served the full term of the disqualification period ordered by the court.
- 3.4. The Regulations therefore amend Article 42 of the Road Traffic Offenders (Northern Ireland) Order 1996 so that a Community licence holder who is disqualified from driving until they have passed an appropriate test under Article 41 of the 1996 Order, is entitled, once their period of disqualification period has expired, to drive a motor vehicle subject to the same conditions as if that person were authorised to do so by a provisional licence.
- 3.5. The Regulations also amend regulation 27 of the Motor Vehicles (Driving Licences) Regulations (Northern Ireland) 1996 so that a Community licence is considered to be an “appropriate licence” as defined in that regulation. This means that a person who is disqualified from driving under Article 41 of the 1996 Order will be entitled to use a Community licence to demonstrate their eligibility to take a driving test.
- 3.6. These amendments will ensure that the requirements of the Directive are met.

4. Consultation

- 4.1. A consultation exercise was not considered necessary as the amendments have very limited impact and are required to ensure compliance with the Directive.

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 they do not have implications for equality of opportunity. The measures will not affect any group disproportionately. In light of this the Department considers that an equality impact assessment is not necessary.

6. Regulatory Impact

6.1. The amendments made by these Regulations will not impose any costs on the private or voluntary sector and therefore a Regulatory Impact Assessment was not considered necessary.

7. Financial Implications

7.1. There are no financial implications for the Department as a result of the introduction of these Regulations.

8. Section 24 of the Northern Ireland Act 1998

8.1. The Department has considered the matter of Convention Rights and Community Law and is satisfied that the proposed legislation is compatible with section 24 of the Northern Ireland Act 1998.

9. EU Implications

9.1. The Regulations will ensure compliance with the requirements of the Directive.

10. Parity or replicatory measure

10.1 These Regulations are based on similar provisions contained in the GB Statutory Instrument 2015 No. 2004.

11. Additional information

11.1. Not applicable.

