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DRAFT STATUTORY INSTRUMENTS

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**2007 No.**

**The Road Traffic (Northern Ireland) Order 2007**

**PART V**

**DRIVING INSTRUCTION**

*Registration*

**Register**

**51.**—(1) Regulations shall make provision for the establishment and maintenance of a register for the purposes of this Part.

(2) An application to be registered in respect of any description of driving instruction must be made to the officer of the Department (in this Part referred to as “the Registrar”) by whom the register is, on behalf of the Department, compiled and maintained.

(3) An application under paragraph (2) shall be made in such manner, and shall be accompanied by such particulars, as the Department may determine.

(4) The Registrar must, on making a decision on an application under paragraph (2), give notice in writing of the decision to the applicant which, in the case of a decision to refuse the application, must state the grounds for the refusal.

(5) Regulations may make provision authorising the Department to make available information about persons registered under this Article.

(6) Paragraphs (2) to (5) and Article 52 do not apply in relation to an application by a person to be registered, or to a person’s registration, as a disabled instructor in respect of the giving of instruction in the driving of a motor vehicle in the motor vehicle.

**Conditions of registration**

**52.**—(1) Where a person duly applies to be registered in respect of a description of driving instruction, the Registrar must register him in respect of that description of driving instruction if he satisfies the Registrar that the conditions prescribed under this paragraph are fulfilled.

(2) In the case of applications by persons to be registered in relation to the giving of a description of driving instruction, those conditions may (in particular) include—

- (a) conditions requiring the persons to have passed such examinations of ability and fitness to give driving instruction of that description as may be prescribed under Article 62;
- (b) conditions requiring the persons to hold, or to have held for a prescribed period, such licences to drive motor vehicles of a prescribed description as may be prescribed; and
- (c) conditions requiring the persons not to have been disqualified during a prescribed period under prescribed provisions for holding or obtaining a licence to drive motor vehicles.

(3) A person may be registered in respect of a description of driving instruction subject to fulfilling the conditions prescribed under this paragraph for so long as he continues to be so registered.

(4) In the case of registration of persons in relation to the giving of a description of driving instruction, those conditions may (in particular) include—

- (a) conditions requiring the persons, if at any time required to do so by the Registrar, to submit themselves for such examinations of continued ability and fitness to give driving instruction of that description as may be prescribed under Article 62;
- (b) conditions requiring the persons to have passed those examinations;
- (c) conditions within paragraph (2)(b) and (c); and
- (d) conditions requiring the persons to follow guidance issued by the Registrar as to the giving of driving instruction of that description.

(5) In the case of the registration of persons in relation to the carrying on of business in the provision of a description of driving instruction, those conditions may (in particular) include—

- (a) conditions requiring the person to secure that motor vehicles and premises used by them in the carrying on of the business meet prescribed standards throughout the period of registration;
- (b) conditions requiring the persons, if at any time required to do so by the Registrar, to allow those motor vehicles and premises to be inspected; and
- (c) conditions requiring the persons to follow guidance issued by the Registrar as to the carrying on of business in the provision of driving instruction of that description.

(6) The conditions prescribed under paragraph (1) or (3) may (in particular) include a condition that persons are fit and proper persons to be, or to continue to be, registered.

(7) Regulations may include provision for persons of a prescribed description to be exempt from any condition, to such extent as is prescribed, in prescribed circumstances.

### **Registration of disabled persons**

**53.**—(1) A person may apply to the Registrar to be registered as a disabled instructor in respect of the giving of instruction in the driving of a motor vehicle of a prescribed description in such a motor vehicle if he—

- (a) suffers from a disability or prospective disability affecting the driving of motor vehicles of that description;
- (b) holds a current disabled person's limited driving licence relating to motor vehicles of that description; and
- (c) holds a current emergency control certificate specifying motor vehicles of that description.

(2) An application under paragraph (1) shall be made in such manner, and shall be accompanied by such particulars, as the Department may determine.

(3) If, at the time when he makes an application under paragraph (1), a person is aware—

- (a) that he is suffering from a relevant or prospective disability which he has not previously disclosed to the Department in making an application for his current emergency control certificate; or
- (b) that a relevant or prospective disability from which he has at any time suffered (and which has been previously so disclosed) has become more acute since the granting of his current emergency control certificate,

his application under paragraph (1) must be accompanied by written notification of the nature and extent of his disability.

(4) Any person who fails without reasonable excuse to comply with the requirement imposed by paragraph (3) is guilty of an offence.

(5) Where a person duly applies to be registered as a disabled instructor in respect of the giving of instruction in the driving of a motor vehicle of a prescribed description in such a motor vehicle, the Registrar must (subject to Article 54(4)) so register him if he satisfies the Registrar that the conditions prescribed under this paragraph are fulfilled.

(6) Those conditions may (in particular) include—

- (a) conditions requiring the person to have passed such examinations of ability and fitness to give driving instruction of that description as may be prescribed under Article 62;
- (b) conditions requiring the person to hold, or to have held for a prescribed period, such licences to drive motor vehicles of a prescribed description as may be prescribed; and
- (c) conditions requiring the person not to have been disqualified during a prescribed period under prescribed provisions for holding or obtaining a licence to drive motor vehicles.

(7) A person may be so registered subject to fulfilling the conditions prescribed under this paragraph for so long as he continues to be so registered.

(8) Those conditions may (in particular) include—

- (a) conditions requiring the person, if at any time required to do so by the Registrar, to submit himself for such examinations of continued ability and fitness to give driving instruction of that description as may be prescribed under Article 62;
- (b) conditions requiring the person to have passed those examinations;
- (c) conditions requiring the person, if at any time required to do so by the Registrar, to submit himself for a further emergency control assessment on the day (within such period as may be prescribed) and at the place specified by the Registrar;
- (d) conditions within paragraph (6)(b) and (c); and
- (e) conditions requiring the person to follow guidance issued by the Registrar as to the giving of instruction in the driving of a motor vehicle of a prescribed description in such a motor vehicle.

(9) The conditions prescribed under paragraph (5) or (7) may (in particular) include a condition that persons are fit and proper persons to be, or to continue to be, registered.

(10) In considering whether to exercise, in respect of any person, his power under paragraph (8) (c), the Registrar must have regard to any recommendation included in the person's current emergency control certificate as to the period after which he should undergo a further emergency control assessment.

(11) Regulations may include provision for prescribed persons to be exempt from any prescribed condition, to such extent as is prescribed, in prescribed circumstances.

(12) Regulations may make provision authorising the Department to make available information about persons registered under this Article.

(13) In this Part—

“appropriate motor vehicle” means, subject to Article 54(2), a motor vehicle equipped with automatic transmission;

“course provider”, in respect of motor vehicles of any description, means a want of physical ability affecting the driving of motor vehicles of that description; and—

- (a) “relevant disability”, in relation to a person, means any disability which is prescribed in regulations or any other disability likely to cause the driving of a motor vehicle of the description in question by him to be a source of danger to the public; and

- (b) “prospective disability”, in relation to a person, means any other disability which, at the material time, is not of such a kind that it is a relevant disability but, by virtue of the intermittent or progressive nature of the disability or otherwise, may become a relevant disability in course of time;

“disabled person’s limited driving licence” means a licence of one of the following kinds, that is to say—

- (a) a licence to drive a motor vehicle granted under Part II of the Order of 1981 (not being a provisional licence within the meaning of Part II of that Order) which is limited, by virtue of a notice served under Article 9(5)(b) of that Order, to an appropriate motor vehicle;
- (b) a licence to drive a motor vehicle granted under Part 3 of the Road Traffic Act 1988 (c. 52) (not being a provisional licence within the meaning of Part 3 of that Act) which is limited, by virtue of a notice served under section 92(5)(b) of that Act, to an appropriate motor vehicle; and
- (c) a community licence authorising the driving of a motor vehicle which is similarly limited by virtue of any corresponding provision of the law under which it was issued and a counterpart of that licence;

“emergency control assessment” and “emergency control certificate” mean an assessment and a certificate under Article 65;

“course provider”, in relation to a motor vehicle, includes equipment; and

“registered disabled instructor” means a person registered as a disabled instructor in respect of instruction in the driving of motor vehicles of a prescribed description given in a motor vehicle of that description;

and any reference, in relation to a person, to the class of motor vehicle covered by his disabled person’s limited driving licence is a reference to the class of motor vehicle specified in the notice served on him under Article 9(5)(b) of the Order of 1981 but disregarding any modifications specified in the notice.

### **Provisions supplementary to Article 53**

54.—(1) A person who fulfils the conditions mentioned in Article 53(1)(a) and (b) may, for the purposes of obtaining an emergency control certificate, apply to undergo an emergency control assessment.

(2) Regulations may specify modifications of a motor vehicle as modifications which are to be required for a motor vehicle to be an appropriate motor vehicle for the purposes of this Part or as modifications which are not to be required for a motor vehicle to be an appropriate motor vehicle for those purposes.

(3) Regulations may make provision for prescribed persons to be exempt from Article 53(1)(c) in prescribed circumstances.

(4) The Registrar may refuse to register a person under Article 53 if he is satisfied that the person has at any time refused to comply with a requirement under Article 66(2) to submit himself for a further emergency control assessment.

(5) The Registrar must, on making a decision on an application under Article 53, give notice in writing of his decision to the applicant which, in the case of a decision to refuse the application, must state the grounds for the refusal.

### **Duration of registration**

**55.**—(1) Unless previously terminated under the provisions of this Part, a person's registration in respect of any description of driving instruction shall (subject to paragraph (3)) be terminated at the end of the period of 4 years beginning with the day specified in paragraph (2).

(2) That day is—

- (a) the first day of the month next after that in which the person became registered in respect of that description of driving instruction; or
- (b) where his registration in respect of that description of driving instruction has been extended under Article 56, the day on which the last further period for which the registration was last extended began.

(3) If an application for the extension of a person's registration in respect of any description of driving instruction is made under Article 56, the registration is not terminated under paragraph (1).

(4) Subject to paragraph (5), where a person whose registration in respect of any description of driving instruction has been terminated under paragraph (1) applies under Article 51 to be registered again in respect of that description of driving instruction, he shall be required again to fulfil such of the conditions prescribed under Article 52(1) as may be prescribed.

(5) If the person mentioned in paragraph (4) was a registered disabled instructor he shall instead be required again to fulfil such of the conditions prescribed under Article 53(5) as may be prescribed.

### **Extension of duration of registration**

**56.**—(1) A person may, no later than such time before his registration in respect of any description of driving instruction is terminated under Article 55(1) as is prescribed, apply to the Registrar for the extension of that registration for a further period of 4 years.

(2) An application under paragraph (1) shall be made in such manner, and shall be accompanied by such particulars, as the Department may determine.

(3) On an application under paragraph (1), the applicant shall be entitled to have the registration extended for the further period of 4 years if he satisfies the Registrar that the prescribed requirements are fulfilled.

(4) The continued registration of a person by virtue of an extension under this Article may be subject to—

- (a) in the case of a registered disabled instructor, the conditions prescribed under Article 53(7);
- (b) in any other case, the conditions prescribed under Article 52(3).

(5) The Registrar must, on making a decision to grant or refuse an application under paragraph (1), give notice in writing of the decision to the person, including, where he refuses the application, particulars of the grounds on which he refuses it.

(6) The termination of a person's registration on a decision to refuse such an application shall take effect at the end of the period of 14 days beginning with the day on which notice of the decision is given (or, if any appeal brought against the decision under Article 59 is previously withdrawn, when the appeal is withdrawn).

(7) But the Registrar may, when giving notice of his decision to refuse the application, direct that the termination of registration shall instead take effect—

- (a) where no appeal under Article 59 is brought against the decision within the time limited for the appeal, on the expiration of that time;
- (b) where such an appeal is brought and is withdrawn, on the withdrawal of the appeal;
- (c) where such an appeal is brought and is not withdrawn, in accordance with Article 59(4) or any direction under Article 59(5).

### **Termination of registration by Registrar**

57.—(1) The Registrar may terminate a person’s registration in respect of any description of driving instruction if he is satisfied that any relevant prescribed condition has not been complied with in the case of the person—

- (a) in a case where his registration has not been extended under Article 56, at any time since he became registered; or
- (b) in a case where his registration has been so extended, at any time since it was last extended.

(2) For the purposes of paragraph (1) “relevant prescribed condition” means—

- (a) in the case of a registered disabled instructor, a condition prescribed under Article 53(7); and
- (b) in any other case, a condition prescribed under Article 52(3).

(3) The Registrar may also terminate a person’s registration in respect of a description of driving instruction if the person’s registration, or (if the person’s registration has been extended) the last extension of his registration, was made by mistake or procured by fraud.

(4) The Registrar must, on making a decision to terminate a person’s registration in respect of any description of driving instruction, give notice in writing of the decision to the person together with particulars of the grounds on which he is terminating it.

(5) A decision to terminate a person’s registration in respect of any description of driving instruction shall take effect at the end of the period of 14 days beginning with the day on which notice of the decision is given (or, if any appeal brought against the decision under Article 59 is previously withdrawn, when the appeal is withdrawn).

(6) But the Registrar may, when giving notice of his decision to terminate a person’s registration in respect of any description of driving instruction, direct that the decision shall instead take effect—

- (a) where no appeal under Article 59 is brought against the decision within the time limited for the appeal, on the expiration of that time;
- (b) where such an appeal is brought and is withdrawn, on the withdrawal of the appeal;
- (c) where such an appeal is brought and is not withdrawn, in accordance with Article 59(4) or any direction under Article 59(5).

### **Power to give direction as to further applications**

58.—(1) This Article applies when the Registrar decides—

- (a) to refuse to register a person;
- (b) to refuse an application for the extension of a person’s registration; or
- (c) to terminate a person’s registration,

in respect of any description of driving instruction.

(2) The Registrar may direct that any application by that person to be registered in respect of that description of driving instruction shall not be entertained before the end of such period, not exceeding 4 years beginning with the day on which the decision takes effect, as may be specified in the direction.

(3) Notice of any such direction must be included in the notice of decision in connection with which it is given.