



# Road Traffic (New Drivers) Act 1995

## 1995 CHAPTER 13

### *Revocation of licences and re-testing*

#### **2 Surrender of licences.**

- (1) Subsection (2) applies where—
- a person is the holder of a licence;
  - he is convicted of an offence involving obligatory endorsement;
  - the penalty points to be taken into account under section 29 of the <sup>M1</sup>Road Traffic Offenders Act 1988 on that occasion number six or more;
  - the court makes an order falling within section 44(1)(b) of that Act in respect of the offence;
  - the person's licence shows the date on which he became a qualified driver, or that date has been shown by other evidence in the proceedings; and
  - it appears to the court, in the light of the order and the date so shown, that the offence was committed during the person's probationary period.
- (2) Where this subsection applies, the court must send to the Secretary of State—
- a notice containing the particulars required to be endorsed on the counterpart of the person's licence in accordance with the order referred to in subsection (1)(d); and
  - on their production to the court, the person's licence and its counterpart.
- (3) Subsection (4) applies where—
- a person's licence and its counterpart have been sent to the fixed penalty clerk under section 54(7) of the <sup>M2</sup>Road Traffic Offenders Act 1988<sup>[F1]</sup>, retained by a vehicle examiner under that section] or delivered to the <sup>[F2]</sup>appropriate person in ] response to a conditional offer issued under section 75 of that Act;
  - the offence to which the fixed penalty notice or the conditional offer relates is one involving obligatory endorsement;
  - the <sup>[F3]</sup>appropriate person] endorses the number of penalty points to be attributed to the offence on the counterpart of the licence;

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- (d) the penalty points to be taken into account by the <sup>F3</sup>[appropriate person] in respect of the offence number six or more;
  - (e) the licence shows the date on which the person became a qualified driver; and
  - (f) it appears to the <sup>F3</sup>[appropriate person], in the light of the particulars of the offence endorsed on the counterpart of the licence and the date so shown, that the offence was committed during the person's probationary period.
- (4) Where this subsection applies <sup>F4</sup>...—
- (a) <sup>F5</sup>[the appropriate person] may not return the licence and its counterpart under section 57(3) or (4) or 77(1) of the <sup>M3</sup>Road Traffic Offenders Act 1988; but
  - (b) <sup>F6</sup>[unless the appropriate person is the Secretary of State, he] must send them to the Secretary of State.
- (5) For the purposes of subsection (3)(d) the penalty points to be taken into account <sup>F7</sup>... in respect of the offence are the penalty points which would have been taken into account under section 29 of the <sup>M4</sup>Road Traffic Offenders Act 1988 if—
- (a) the person in question had been convicted of the offence; and
  - (b) the number of penalty points to be attributed to the offence on that occasion had been determined in accordance with section 28(3) of that Act.

<sup>F8</sup>(6) In this section and section 3 “licence” includes a Northern Ireland licence.]

<sup>F9</sup>(7) In this section and section 3—

- “ the appropriate person ”, in relation to a fixed penalty notice, means—
- (a) if it was given by a constable or an authorised person, the fixed penalty clerk, and
  - (b) if it was given by a vehicle examiner or the Secretary of State, the Secretary of State, and
- “ the appropriate person ”, in relation to a conditional offer, means—
- (a) where the conditional offer was issued under subsection (1), (2) or (3) of section 75 of the Road Traffic Offenders Act 1988, the fixed penalty clerk, and
  - (b) where it was issued under subsection (1A) or (3B) of that section, the Secretary of State.]

#### Textual Amendments

- F1** Words in s. 2(3)(a) inserted (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 1 para. 25(2)(a)(i)**; S.I. 2008/3164, art. 3(b)
- F2** Words in s. 2(3)(a) substituted (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 1 para. 25(2)(a)(ii)**; S.I. 2008/3164, art. 3(b)
- F3** Words in s. 2(3)(c)(d)(f) substituted (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 1 para. 25(2)(b)**; S.I. 2008/3164, art. 3(b); S.I. 2008/3164, art. 3(b); S.I. 2008/3164, art. 3(b)
- F4** Words in s. 2(4) repealed (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), Sch. 1 para. 25(3)(a), **Sch. 7(2)**; S.I. 2008/3164, art. 3(b)
- F5** Words in s. 2(4)(a) inserted (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 1 para. 25(3)(b)**; S.I. 2008/3164, art. 3(b)
- F6** Words in s. 2(4)(b) inserted (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 1 para. 25(3)(c)**; S.I. 2008/3164, art. 3(b)
- F7** Words in s. 2(5) repealed (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), Sch. 1 para. 25(4), **Sch. 7(2)**; S.I. 2008/3164, art. 3(b)

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- F8** S. 2(6) inserted (11.10.2004) by [Crime \(International Co-operation\) Act 2003 \(c. 32\), s. 94\(1\), Sch. 5 para. 46](#); S.I. 2004/2624, art. 2(1)(2)(b)
- F9** S. 2(7) inserted (31.3.2009) by [Road Safety Act 2006 \(c. 49\), s. 61\(1\)\(10\), Sch. 1 para. 25\(5\)](#); S.I. 2008/3164, art. 3(b)

#### Marginal Citations

- M1** 1988 c. 53.  
**M2** 1988 c. 53.  
**M3** 1988 c. 53.  
**M4** 1988 c. 53.

### 3 Revocation of licences.

- (1) Where the Secretary of State receives—
- (a) a notice sent to him under section 2(2)(a) of particulars required to be endorsed on the counterpart of a person's licence, or
  - (b) a person's licence and its counterpart sent to him in accordance with section 2(2)(b) or <sup>F10</sup>[4(b)],
- the Secretary of State must by notice served on that person revoke the licence.

<sup>F11</sup>(1ZA) Where section 2(4)(a) applies but the appropriate person is the Secretary of State, the Secretary of State must by notice served on the person to whom the fixed penalty notice or conditional offer was given or issued, revoke that person's licence.]

<sup>F12</sup>(1A) Where the Secretary of State serves on the holder of a Northern Ireland licence a notice under subsection (1) <sup>F13</sup>[or (1ZA)], the Secretary of State must send to the licensing authority in Northern Ireland—

- (a) particulars of the notice; and
- (b) the Northern Ireland licence.

(1B) Where the Secretary of State is sent by that licensing authority particulars of a notice served on the holder of a licence under a provision of Northern Ireland law corresponding to subsection (1) <sup>F13</sup>[or (1ZA)], he must by notice served on the holder revoke the licence.]

(2) A revocation under <sup>F14</sup>[this section] shall have effect from a date specified in the notice of revocation which may not be earlier than the date of service of that notice.

<sup>F15</sup>(3) In this section references to the revocation of a person's Northern Ireland licence are references to its revocation as respects Great Britain; and, accordingly, the person ceases to be authorised by virtue of section 109(1) of the Road Traffic Act 1988 to drive in Great Britain a motor vehicle of any class.]

#### Textual Amendments

- F10** Reference in s. 3(1) substituted (31.3.2009) by [Road Safety Act 2006 \(c. 49\), s. 61\(1\)\(10\), Sch. 1 para. 26\(2\)](#); S.I. 2008/3164, art. 3(b)
- F11** S. 3(1ZA) inserted (31.3.2009) by [Road Safety Act 2006 \(c. 49\), s. 61\(1\)\(10\), Sch. 1 para. 26\(3\)](#); S.I. 2008/3164, art. 3(b)
- F12** S. 3(1A)(1B) inserted (11.10.2004) by [Crime \(International Co-operation\) Act 2003 \(c. 32\), s. 94\(1\), Sch. 5 para. 47\(a\)](#); S.I. 2004/2624, art. 2(1)(2)(b)

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- F13** Words in s. 3(1A)(1B) inserted (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 1 para. 26(4)**; S.I. 2008/3164, art. 3(b); S.I. 2008/3164, art. 3(b)
- F14** Words in s. 3(2) substituted (31.3.2009) by Road Safety Act 2006 (c. 49), s. 61(1)(10), **Sch. 1 para. 26(5)**; S.I. 2008/3164, art. 3(b)
- F15** S. 3(3) inserted (11.10.2004) by Crime (International Co-operation) Act 2003 (c. 32), s. 94(1), **Sch. 5 para. 47(c)**; S.I. 2004/2624, art. 2(1)(2)(b)

#### 4 Re-testing.

(1) Subject to subsection (5) and section 5, the Secretary of State may not under Part III of the <sup>M5</sup>Road Traffic Act 1988 grant a person whose licence has been revoked under [<sup>F16</sup>section 3] a full licence to drive any class of vehicles in relation to which the revoked licence was issued as a full licence [<sup>F17</sup>or (as the case may be) full Northern Ireland licence] unless he satisfies the Secretary of State that within the relevant period he has passed a relevant driving test.

[<sup>F18</sup>(1A) Subject to subsection (5), the Secretary of State may not under that Part grant a person whose Northern Ireland licence has been revoked under a provision of Northern Ireland law corresponding to section 3(1) a full licence to drive any class of vehicles in relation to which the revoked licence was issued as a full Northern Ireland licence unless he satisfies the Secretary of State as mentioned in subsection (1).]

(2) In this section “relevant driving test” means, in relation to a person whose licence has been revoked, any test which—

- (a) falls within paragraph (a) or (b) of section 1(2); and
- (b) is a test of competence to drive any vehicle included in any class of vehicles in relation to which the revoked licence was issued as a full licence [<sup>F19</sup>or (as the case may be) full Northern Ireland licence].

(3) If the Secretary of State grants a full licence to a person who is required to pass a relevant driving test in order to be granted that licence, the licence granted must (subject to section 92 and Part IV of the <sup>M6</sup>Road Traffic Act 1988) be one authorising that person to drive all the classes of vehicles in relation to which the revoked licence was issued as a full licence [<sup>F20</sup>or (as the case may be) full Northern Ireland licence].

(4) In subsection (1) “the relevant period” means the period beginning—

- (a) after the date of the revocation of the licence; and
- (b) not more than two years before the date on which the application for the full licence is made.

(5) [<sup>F21</sup>Subsections (1) and (1A) do] not apply to a person whose licence has been revoked under [<sup>F22</sup>section 3 or whose Northern Ireland licence has been revoked under a provision of Northern Ireland law corresponding to section 3(1)] if, before he passes a relevant driving test, an order is made in relation to him under section 36 of the <sup>M7</sup>Road Traffic Offenders Act 1988 (disqualification until test is passed).

#### Textual Amendments

- F16** Words in s. 4(1) substituted (11.10.2004) by Crime (International Co-operation) Act 2003 (c. 32), s. 94(1), **Sch. 5 para. 48(a)(i)**; S.I. 2004/2624, art. 2(1)(2)(b)
- F17** Words in s. 4(1) inserted (11.10.2004) by Crime (International Co-operation) Act 2003 (c. 32), s. 94(1), **Sch. 5 para. 48(a)(ii)**; S.I. 2004/2624, art. 2(1)(2)(b)

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- F18** S. 4(1A) inserted (11.10.2004) by Crime (International Co-operation) Act 2003 (c. 32), s. 94(1), **Sch. 5 para. 48(b)**; S.I. 2004/2624, art. 2(1)(2)(b)
- F19** Words in s. 4(2) inserted (11.10.2004) by Crime (International Co-operation) Act 2003 (c. 32), s. 94(1), **Sch. 5 para. 48(c)**; S.I. 2004/2624, art. 2(1)(2)(b)
- F20** Words in s. 4(3) inserted (11.10.2004) by Crime (International Co-operation) Act 2003 (c. 32), s. 94(1), **Sch. 5 para. 48(c)**; S.I. 2004/2624, art. 2(1)(2)(b)
- F21** Words in s. 4(5) substituted (11.10.2004) by Crime (International Co-operation) Act 2003 (c. 32), s. 94(1), **Sch. 5 para. 48(d)(i)**; S.I. 2004/2624, art. 2(1)(2)(b)
- F22** Words in s. 4(5) substituted (11.10.2004) by Crime (International Co-operation) Act 2003 (c. 32), s. 94(1), **Sch. 5 para. 48(d)(ii)**; S.I. 2004/2624, art. 2(1)(2)(b)

#### Marginal Citations

- M5** 1988 c. 52.  
**M6** 1988 c. 52.  
**M7** 1988 c. 53.

## 5 Restoration of licence without re-testing in certain cases.

- (1) If the Secretary of State receives notice that a person whose licence has been revoked under <sup>F23</sup>section 3] is appealing against a conviction or endorsement which was the basis or formed part of the basis for the revocation, he must grant that person free of charge a full licence for a period prescribed by regulations.
- (2) Regulations under subsection (1) may in particular prescribe—
  - (a) a period expiring when the appeal is finally determined or abandoned; or
  - (b) a period expiring on the date on which the revoked licence would have expired if it had not been revoked.
- (3) If the regulations prescribe a period other than that mentioned in subsection (2)(a), a licence granted under subsection (1) shall be treated as revoked if—
  - (a) following the appeal, the penalty points taken into account for the purposes of section 2 <sup>F24</sup>or (as the case may be) the provision of Northern Ireland law corresponding to that section] are not reduced to a number smaller than six; or
  - (b) the appeal is abandoned.
- (4) If, in the case of a person whose licence has been revoked under <sup>F25</sup>section 3], the Secretary of State receives notice that a court—
  - (a) has quashed a conviction which was the basis or formed part of the basis for the revocation of the licence,
  - (b) has quashed an endorsement which was the basis or formed part of the basis for the revocation of the licence and has not on doing so ordered him to be disqualified, or
  - (c) has made an order which has the effect of reducing the penalty points taken into account for the purposes of section 2 <sup>F26</sup>or (as the case may be) the provision of Northern Ireland law corresponding to that section] to a number smaller than six,then, subject to subsection (5), the Secretary of State must grant that person free of charge a full licence for a period expiring on the date on which the revoked licence would have expired if it had not been revoked.
- (5) Subsection (4) does not require the Secretary of State to grant a licence to a person who has been granted a previous licence which has not been surrendered unless that

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person provides the Secretary of State with an explanation for not surrendering the previous licence that the Secretary of State considers adequate.

- (6) If, in accordance with subsection (1) or (4), the Secretary of State grants a full licence to a person whose licence has been revoked under [<sup>F27</sup>section 3], the licence granted must be one authorising that person to drive all the classes of vehicles in relation to which the revoked licence was issued as a full licence.
- (7) Any licence granted in accordance with subsection (1) or (4) shall have effect for the purposes of the Road Traffic Acts as if it were a licence granted under Part III of the <sup>M8</sup>Road Traffic Act 1988.
- (8) Regulations may make provision for requiring such courts as may be prescribed to give notice to the Secretary of State—
- (a) that a person whose licence has been or is due to be revoked under section 3(1) is appealing against a conviction or endorsement which is the basis or forms part of the basis for the revocation;
  - (b) that such an appeal has been abandoned.
- (9) Regulations under this section may—
- (a) include such incidental or supplementary provision as appears to the Secretary of State to be expedient;
  - (b) make different provision for different cases.
- (10) Any regulations made under this section shall be made by the Secretary of State by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- [<sup>F28</sup>(11) Nothing in this section applies in relation to a person whose Northern Ireland licence has been revoked under section 3(1).]

#### Textual Amendments

- F23** Words in s. 5(1) substituted (11.10.2004) by [Crime \(International Co-operation\) Act 2003 \(c. 32\), s. 94\(1\), Sch. 5 para. 49\(a\)](#); S.I. 2004/2624, art. 2(1)(2)(b)
- F24** Words in s. 5(3)(a) inserted (11.10.2004) by [Crime \(International Co-operation\) Act 2003 \(c. 32\), s. 94\(1\), Sch. 5 para. 49\(b\)](#); S.I. 2004/2624, art. 2(1)(2)(b)
- F25** Words in s. 5(4) substituted (11.10.2004) by [Crime \(International Co-operation\) Act 2003 \(c. 32\), s. 94\(1\), Sch. 5 para. 49\(a\)](#); S.I. 2004/2624, art. 2(1)(2)(b)
- F26** Words in s. 5(4)(c) inserted (11.10.2004) by [Crime \(International Co-operation\) Act 2003 \(c. 32\), s. 94\(1\), Sch. 5 para. 49\(b\)](#); S.I. 2004/2624, art. 2(1)(2)(b)
- F27** Words in s. 5(6) substituted (11.10.2004) by [Crime \(International Co-operation\) Act 2003 \(c. 32\), s. 94\(1\), Sch. 5 para. 49\(a\)](#); S.I. 2004/2624, art. 2(1)(2)(b)
- F28** S. 5(11) inserted (11.10.2004) by [Crime \(International Co-operation\) Act 2003 \(c. 32\), s. 94\(1\), Sch. 5 para. 49\(c\)](#); S.I. 2004/2624, art. 2(1)(2)(b)

#### Commencement Information

- II** S. 5 wholly in force; s. 5 not in force at Royal Assent, see s. 10(2); s. 5(1)(2)(8)(9) and (10) in force at 1.3.1997 and s. 5 fully in force at 1.6.1996 by [S.I. 1997/267, art. 2\(1\)\(2\)](#)

#### Marginal Citations

- M8** 1988 c. 52.

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