

## SCHEDULES

### SCHEDULE 2

#### DRIVING INSTRUCTORS

##### PART 1

###### AMENDMENTS OF PART 5 RTA 1988 (AS AMENDED BY RSA 2006)

- 1 Part 5 of the Road Traffic Act 1988 (driving instruction), as amended by Schedule 6 to the Road Safety Act 2006, is amended as follows.
- 2 In section 124 (exemption from prohibitions imposed by section 123)—
  - (a) in subsection (3), for “in particular, consist of” substitute “in particular—
    - (a) include the circumstance that a person holds a current emergency control certificate (and require the person to undergo an emergency control assessment for the purpose of obtaining such a certificate);
    - (b) consist of”;
  - (b) after subsection (5) insert—

“(6) In this Part “emergency control assessment” and “emergency control certificate” mean an assessment and a certificate under section 133A of this Act.”
- 3 (1) Section 125 (register) is amended as follows.
  - (2) After subsection (3) insert—

“(3A) If an applicant is aware that he is suffering from a relevant or prospective disability, his application under subsection (2) must be accompanied by written notification of the nature and extent of his disability.

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

(3C) The Registrar may, in the circumstances mentioned in subsection (3D), require an applicant to submit himself for an emergency control assessment (whether or not the applicant already holds an emergency control certificate) in connection with his application under subsection (2).

(3D) Those circumstances are that the Registrar has reasonable grounds for believing that the person would be unable to take control of a motor vehicle of the class in which instruction is to be given if an emergency arose while he was giving driving instruction in such a motor vehicle.”
  - (3) After subsection (5) insert—

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“(5A) In this Part “disability”, 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 prescribed disability or any other disability likely to cause the driving of a vehicle of the description in question by him to be a source of danger to the public;
- (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 the course of time.”

(4) Omit subsection (6).

4 (1) Section 125ZA (conditions of registration) is amended as follows.

(2) In subsection (2)—

- (a) omit the “and” at the end of paragraph (b);
- (b) after paragraph (c) insert “, and
- (d) in the case of persons who have been required under section 125(3C) to submit themselves for emergency control assessments, conditions requiring the persons to hold current emergency control certificates.”

(3) In subsection (4)—

- (a) after paragraph (b) insert—
  - “(ba) conditions requiring the persons, if at any time required to do so by the Registrar in the circumstances mentioned in section 125(3D), to submit themselves for emergency control assessments (whether or not they already hold emergency control certificates) on such days (within such periods as may be prescribed) and at such places as may be specified by the Registrar,
  - (bb) conditions requiring the persons to hold an emergency control certificate following any such assessment,”;
- (b) in paragraph (c), for “and (c)” substitute “, (c) and (d)”;
- (c) omit the “and” at the end of paragraph (c);
- (d) after paragraph (c) insert—
  - “(ca) conditions requiring that, if instruction in the driving of a motor vehicle is to be given in circumstances where there is a reasonable expectation of an emergency arising which necessitates the instructor taking control of the vehicle, the persons will only give such instruction if they would be able to take control of the vehicle if such an emergency arose while giving the instruction, and”.

5 Omit sections 125A and 125B (registration of disabled persons and supplementary provision).

6 In section 126 (duration of registration), omit subsection (5).

7 In section 127 (extension of duration of registration), in subsection (4)—

- (a) omit paragraph (a) and the “and” following it;
  - (b) in paragraph (b), omit “in any other case,”.
- 8 In section 128 (termination of registration by Registrar), in subsection (2)—
- (a) omit paragraph (a) and the “and” following it;
  - (b) in paragraph (b), omit “in any other case,”.
- 9 After section 128A insert—

**“128B Direction to disregard emergency control assessment requirement**

- (1) This section applies where a person has been required under section 125(3C), or as mentioned in section 125ZA(4)(ba), to submit himself for an emergency control assessment.
  - (2) At any time before the assessment takes place the Registrar may withdraw the requirement (in which case this Part applies as if the requirement had never been imposed).
  - (3) At any time after the assessment takes place the Registrar may direct that the requirement is to be disregarded for the purposes of this Part (and accordingly any condition that the person holds an emergency certificate is to cease to apply).
  - (4) Notice of—
    - (a) the withdrawal of a requirement under subsection (2), or
    - (b) a direction under subsection (3),must be given to the person on whom the requirement was imposed.”
- 10 In section 133 (review of examinations etc)—
- (a) in subsection (2)(a), omit “or 125A(6)(a)”;
  - (b) in subsection (2)(b), omit “or 125A(7A)(a)”.
- 11 (1) Section 133A (assessment of ability to control a motor car in an emergency) is amended as follows.
- (2) In subsection (2)—
    - (a) in paragraph (a), for “class covered by his disabled person’s driving licence” substitute “prescribed class”;
    - (b) in paragraph (b), for “class covered by his disabled person’s driving licence” substitute “prescribed class”;
    - (c) in the closing words, for “an appropriate” substitute “a”.
  - (3) In subsection (6)—
    - (a) in paragraph (a), for “class covered by his disabled person’s limited driving licence” substitute “prescribed class”;
    - (b) in paragraph (b), for “class covered by his disabled person’s limited driving licence” substitute “prescribed class”.
  - (4) In subsection (7)(a), omit “covered by his disabled person’s limited driving licence”.
  - (5) After subsection (9) insert—
    - “(10) In this Part, “modifications”, in relation to a motor vehicle, includes equipment.”

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- (6) In the heading, omit “disabled person’s”.
- (7) In the italic cross-heading before section 133A omit “Disabled Persons:”.
- 12 (1) Section 133B (further assessments) is amended as follows.
  - (2) Omit subsection (1).
  - (3) After subsection (2) insert—
    - “(2A) A person may, for the purpose of obtaining an emergency control certificate, apply to undergo a further emergency control assessment if—
      - (a) he has been required to submit himself for an emergency control assessment under section 125(3C) or as mentioned in section 125ZA(4)(ba),
      - (b) on completing that assessment, the assessor refused to grant him an emergency control certificate, and
      - (c) the application for the further assessment is made in such circumstances as may be prescribed.”
  - (4) Omit subsection (3).
  - (5) In subsection (4), for “subsection (1) above” substitute “subsection (5A)”.
  - (6) After subsection (5) insert—
    - “(5A) A person may not apply to undergo a further emergency control assessment under subsection (4) until after the end of—
      - (a) the period of six months beginning with the date of his most recent previous assessment, or
      - (b) such other period as may be prescribed by regulations,
 unless the Registrar considers it appropriate for the application to be made at such earlier time as may be specified by the Registrar.”
- 13 In section 133C (duty to disclose further disability), in subsection (2)—
  - (a) in the opening words, omit “disabled”;
  - (b) in paragraph (a), for “125A(3)” substitute “125(3A)”.
- 14 (1) Section 133D (offences relating to giving of paid driving instruction) is amended as follows.
  - (2) Before subsection (2) insert—
    - “(1A) This section applies to registered instructors who have undergone emergency control assessments in accordance with a requirement imposed under section 125(3C) or as mentioned in section 125ZA(4)(ba).”
  - (3) In subsections (2) and (3), for “registered disabled instructor” substitute “registered instructor to whom this section applies”.
  - (4) After subsection (3) insert—
    - “(3A) Subsection (3) does not apply if the person to whom the instruction is given holds a full licence granted under Part 3 which is not limited by virtue of a notice served under section 92(5)(b).”

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- (5) In subsection (4), in the opening words, for “registered disabled instructor” substitute “registered instructor to whom this section applies”.
- (6) In the heading, omit “by disabled person”.
- 15 In section 142 (index to Part 5), in the index—
- (a) omit the following expressions and the corresponding relevant provisions
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- “Appropriate motor vehicle”;
- “Disabled person’s limited driving licence”;
- “Registered disabled instructor”;
- (b) in the entry for the expressions “disability, prospective disability and relevant disability”, in the corresponding relevant provision, for “125A(8)” substitute “125(5A)”;
- (c) in the entry for the expressions “emergency control assessment and emergency control certificate”, in the corresponding relevant provision, for “125A(8)” substitute “124(6)”;
- (d) in the entry for the expression “modifications, in relation to a motor vehicle”, in the corresponding relevant provision, for “125A(8)” substitute “133A(10)”.