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DRAFT STATUTORY INSTRUMENTS

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**2007 No.**

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

**PART V**

**DRIVING INSTRUCTION**

*Introductory*

**Interpretation of this Part**

**46.**—(1) For the purposes of this Part persons may carry on business in the provision of driving instruction in any way, including in particular—

- (a) by giving instruction themselves;
- (b) by arranging for the giving of driving instruction by their employees; or
- (c) by arranging for the giving of driving instruction by persons who are franchisees under driving instruction franchises under which they are the franchisor.

(2) In this Part “a driving instruction franchise” is an agreement under which one party (“the franchisor”) grants to another party (“a franchisee”) rights consisting of or including the right to use a particular trading name, style or design in the carrying on of business in the giving of driving instruction.

(3) In this Part references to “the franchisor” and “a franchisee”, in relation to a driving instruction franchise, shall be construed accordingly.

(4) In this Part “current”, in relation to a licence or certificate, means one which has not expired and has not been cancelled, revoked or suspended.

(5) In this Part—

- (a) “Community licence” and “counterpart”, in relation to a Community licence;
- (b) “provisional licence”; and
- (c) “motor vehicle”;

have the same meanings as in the Order of 1981.

(6) In this Part—

- “prescribed” means prescribed by regulations;
- “regulations” means regulations made by the Department.

**Expressions defined in this Part**

**47.** The expressions listed in the left-hand column below are respectively defined or (as the case may be) fall to be construed in accordance with the provisions of this Part listed in the right-hand column in relation to those expressions.

<i>Expression</i>	<i>Relevant provision</i>
Appropriate motor vehicle	Article 53(13)
Carry on business in the provision of driving instruction	Article 46(1)
Community licence and counterpart	Article 46(5)
Current (in relation to a licence or certificate)	Article 46(4)
Disability, prospective disability and relevant disability	Article 53(13)
Disabled person's limited driving licence	Article 53(13)
Driving instruction	Article 48(3)
Driving instruction franchise (and franchisor and franchisee)	Article 46(2) and (3)
Emergency control assessment and emergency control certificate	Article 53(13)
Modifications, in relation to a motor vehicle	Article 53(13)
Paid instruction	Article 48(5) and (6)
Prescribed	Article 46(6)
Provisional licence	Article 46(5)
Registered and registration	Article 48(7)
The register	Article 48(8)
Registered disabled instructor	Article 53(13)
The Registrar	Article 51(2)
Regulations	Article 46(6)
Relevant instructor examination	Article 63(2)

*Instructors and instruction businesses to be registered*

**Requirement of registration**

**48.**—(1) A person—

- (a) must not give paid driving instruction of any prescribed description unless he is registered in respect of the giving of that description of driving instruction; and
- (b) must not carry on business in the provision of paid driving instruction of any prescribed description unless he is registered in respect of the carrying on of business in the provision of that description of driving instruction.

(2) A person—

- (a) must not give paid driving instruction of any prescribed description unless prescribed arrangements as to the displaying of evidence that he is registered in respect of the giving of that description of driving instruction are complied with; and
- (b) must not carry on business in the provision of paid driving instruction of any prescribed description unless prescribed requirements as to the displaying of evidence that he is

registered in respect of the carrying on of business in the provision of that description of driving instruction are complied with.

(3) In this Part “driving instruction” means instruction in relation to the driving of a motor vehicle.

(4) Regulations under this Part which prescribe a description of driving instruction may do so by reference to—

- (a) the class of motor vehicle to which the instruction relates;
- (b) the description of persons to whom the instruction is given or provided; or
- (c) the nature of the instruction or where or how it is given or provided.

(5) For the purposes of this Part instruction is paid instruction if payment of money or money’s worth is, or is to be, made for the instruction by or in respect of the person to whom the instruction is given or provided.

(6) Regulations may prescribe circumstances in which instruction provided free of charge shall be deemed to be given for payment of money by or in respect of the person to whom the instruction is given or provided.

(7) For the purposes of this Part a person is “registered” if his name is in the register together with—

- (a) an indication as to whether he is registered in respect of the giving of driving instruction or the carrying on of business in the provision of driving instruction (or both);
- (b) an indication as to the description of driving instruction in respect of which he is registered; and
- (c) such other particulars as may be prescribed,

and “registration” shall be construed accordingly.

(8) In this Part “the register” means the register established for the purposes of this Part under Article 51.

#### **Paid driving instruction: offences**

**49.**—(1) If driving instruction is given in contravention of Article 48(1)(a)—

- (a) the person by whom it is given;
- (b) if that person is employed by another to give that instruction, that other (as well as that person); and
- (c) if that person is a franchisee under a driving instruction franchise, the franchisor under the driving instruction franchise (as well as that person),

is guilty of an offence.

(2) If a person contravenes Article 48(1)(b) he is guilty of an offence.

(3) In proceedings against a person for an offence under paragraph (1) or (2) it shall be a defence for him to prove that he did not know, and had no reasonable cause to believe, that—

- (a) in a case within sub-paragraph (a) of paragraph (1), or within paragraph (2), he;
- (b) in a case within sub-paragraph (b) of paragraph (1), the person employed by him; or
- (c) in a case within sub-paragraph (c) of that paragraph, the person who was the franchisee under the driving instruction franchise,

was not at the material time registered in respect of the description of driving instruction in question.

(4) If a person contravenes Article 48(2) he is guilty of an offence.

### **Exemption from prohibitions imposed by Article 48**

**50.**—(1) Regulations may prescribe circumstances in which Article 48 shall not apply in relation to driving instruction, or driving instruction of a prescribed description.

(2) The regulations may, in particular, make provision for Article 48(1)(a) and (2)(a) not to apply in prescribed circumstances for the purpose of enabling persons to acquire experience in giving 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.

#### *Appeals*

#### **Appeals to the Department**

- 59.**—(1) A person who is aggrieved by a decision of the Registrar—
- (a) to refuse an application—
    - (i) for his registration, or
    - (ii) for the extension of his registration;
  - (b) to terminate his registration;

(c) to give him a direction under Article 58,  
may by notice in writing appeal to the Department within the period of 28 days beginning with the day on which notice of the decision was given in accordance with this Part.

(2) On an appeal under paragraph (1) the Department may —

- (a) grant or refuse the application;
- (b) continue or terminate the registration; or
- (c) revoke or confirm the direction or alter the period specified in the direction,

(as the case may be) as it thinks fit.

(3) The Department must, on making a decision under paragraph (2), give notice in writing of the decision to the appellant including—

- (a) where it dismisses the appeal, particulars of the grounds of the decision;
- (b) where it gives a direction under paragraph (6), notice of that direction.

(4) A refusal or termination under paragraph (2)(a) or (b) 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 60 is previously withdrawn or dismissed, when the appeal is withdrawn or dismissed).

(5) But the Department may, when giving notice of its decision of a refusal or termination under paragraph (2)(a) or (b), direct that the decision shall instead take effect—

- (a) where no appeal under Article 60 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 not withdrawn, if and when the appeal is dismissed, and not otherwise.

(6) A refusal or termination under paragraph (2)(a) or (b) may direct that an application by the appellant to be registered shall not be entertained before the expiration of such period, not exceeding 4 years beginning with the day on which the refusal or termination is made, as may be specified in the refusal or termination.

(7) If the Department considers that any evidence adduced on an appeal had not been adduced to the Registrar before he gave the decision to which the appeal relates, it may (instead of making a decision under paragraph (2)) remit the matter to the Registrar for him to reconsider the decision.

(8) A person who is aggrieved by a decision of the Registrar not to give a direction under Article 56(7) or 57(6) may by notice in writing appeal to the Department within the period of 10 days beginning with the day on which notice of the decision is given.

(9) The Department shall determine an appeal under paragraph (8) by either—

- (a) giving the direction concerned; or
- (b) dismissing the appeal,

within 14 days beginning with the day on which notice of the decision is given.

(10) The Department must, on making a decision under paragraph (9), give notice in writing of the decision to the appellant including, where it dismisses the appeal, particulars of the grounds of that dismissal.

(11) Where the Registrar has decided to refuse an application for the extension of a person's registration or to terminate a person's registration but either—

- (a) he gave a direction under Article 56(7) or 57(6); or
- (b) the Department has given such a direction on appeal,

he may by notice in writing apply to the Department for a direction that the decision is to take effect immediately.

(12) The Department shall determine the Registrar's application under paragraph (11) by either granting or refusing the application within 14 days beginning with the day on which notice of the decision is given .

(13) The Department may only grant the application if it considers that a failure to do so might prejudicially affect—

- (a) the well-being of any person to whom the person concerned may give instruction in the driving of a motor vehicle; or
- (b) the safety of road users.

(14) The Department must, on making a decision under paragraph (12), give notice in writing of the decision to the person concerned, including, where it grants the application, particulars of the grounds of that decision.

### **Appeals to court of summary jurisdiction**

**60.**—(1) A person who is aggrieved by a decision of the Department—

- (a) under Article 59(2) to refuse an application for his registration or for the extension of his registration;
- (b) under Article 59(2) to terminate his registration;
- (c) under Article 59(2) to confirm a direction or alter the period specified in a direction under Article 58;
- (d) under Article 59(6) to direct that an application by the appellant to be registered shall not be entertained before the expiration of the period specified in the direction,

may by notice in writing appeal to the court within the period of 28 days beginning with the day on which notice of the decision was given in accordance with Article 59(3).

(2) On an appeal under paragraph (1) the court may make such order—

- (a) for the grant or refusal of the application;
- (b) for the continuation or termination of the registration; or
- (c) for the revocation or confirmation of the direction or the alteration of the period specified in the direction,

(as the case may be) as it thinks fit.

(3) An order for refusal or termination under paragraph (2)(a) or (b) may direct that an application by the appellant to be registered shall not be entertained before the expiration of such period, not exceeding 4 years beginning with the day on which the order is made, as may be specified in the order.

(4) If the court considers that any evidence adduced on an appeal had not been adduced to the Department before it gave the decision to which the appeal relates, it may (instead of making an order under paragraph (2)) remit the matter to the Department for it to reconsider the decision.

(5) A person who is aggrieved by a decision of the Department not to give a direction under Article 59(5) may by notice in writing appeal to the court within the period of 10 days beginning with the day on which notice of the decision is given.

(6) The court shall determine an appeal under paragraph (5) by either—

- (a) giving the direction concerned; or
- (b) dismissing the appeal.

(7) Where the Department has decided to refuse an application for the extension of a person's registration or to terminate a person's registration but either—

- (a) it gave a direction under Article 59(5); or
- (b) the court has given such a direction on appeal,

it may by notice in writing apply to the court for an order that the decision is to take effect immediately.

(8) The court shall determine the Department's application under paragraph (7) by either granting or refusing the application.

(9) The court may only grant the application if it considers that a failure to do so might prejudicially affect—

- (a) the well-being of any person to whom the person concerned may give instruction in the driving of a motor vehicle; or
- (b) the safety of road users.

(10) On an appeal under paragraph (1) or (5) the respondent is the Department.

(11) Except in so far as the procedure for appeals or applications is provided for in this Article, Part VII of the [Magistrates' Courts \(Northern Ireland\) Order 1981 \(NI 26\)](#) shall apply to appeals and applications made under this Article.

(12) In this Article, "the court" means a court of summary jurisdiction acting for the petty sessions district in which the person resides.

### **Regulations in respect of appeals**

**61.** The Department may by regulations make such further provision in respect of appeals or applications under Article 59 or 60 as it considers necessary or expedient.

### *Examinations and training*

#### **Examinations**

**62.**—(1) Regulations may make provision with respect to—

- (a) the nature of examinations of the fitness and ability (or continued fitness and ability) to give driving instruction (which may consist of practical tests and other tests and means of assessment) and the administrative arrangements for submitting for such examinations;
- (b) the qualification, selection and appointment of persons by whom they may be conducted, conditions which must be satisfied during the currency of an appointment, the charging of reasonable fees in respect of applications for appointment or appointments or in connection with any examination or assessment which may be required before appointment or during the currency of any appointment and the revocation of any appointment;
- (c) evidence of the results of such examinations; and
- (d) the making available of information about the results of such examinations,

and generally with respect to such examinations.

(2) In particular, the regulations may make provision—

- (a) for requiring a person submitting himself for any part of an examination which consists of practical tests, to provide a safe and suitable vehicle for the purposes of the practical tests and for requiring that, if the vehicle is a vehicle of a prescribed description, the vehicle has been certified in the prescribed manner after a prescribed inspection as satisfying such requirements as may be prescribed;

- (b) for the charging (whether on the making by a person of arrangements to submit himself for any part of an examination or otherwise) of reasonable fees for or in connection with the examination, or any part of it, and any inspection and certification of a vehicle required by regulations under sub-paragraph (a) in relation to any part of the examination;
- (c) for requiring a person who desires to submit himself, or is required to submit himself, for an examination, or any part of it, to supply the Registrar with such particulars as the Department may determine; and
- (d) for ensuring that a person submitting himself for an examination, or any part of it, and failing to pass it shall not be eligible to submit himself for another examination, or any part of it, by the same or any other person before the end of a prescribed period, unless in accordance with the power conferred on the Department by Article 63.

### **Review of examinations etc.**

**63.**—(1) On the application of a person who has undergone a relevant instructor examination, or a part of a relevant instructor examination, the Department may determine whether the examination, or the part of the examination, was properly conducted.

- (2) In this Part “relevant instructor examination” means—
  - (a) an examination of ability and fitness referred to in Article 52(2)(a) or 53(6)(a);
  - (b) an examination of continued ability and fitness referred to in Article 52(4)(a) or 53(8)(a); or
  - (c) an emergency control assessment under Article 65.
- (3) If it appears to the Department that it was not properly conducted, the Department may—
  - (a) (except in the case of an emergency control assessment) order that the applicant shall be eligible to submit himself for another examination before the end of the period prescribed under Article 62; and
  - (b) (in any case) order that any fee payable by the applicant in respect of the examination shall not be paid, or, if it has been paid, shall be repaid.

### **Training**

- 64.**—(1) Regulations may provide that a person—
- (a) shall not be permitted to take any part of a relevant instructor examination;
  - (b) shall not be registered; or
  - (c) shall not have his registration extended,

unless he has successfully completed training in accordance with the regulations.

- (2) Regulations may make provision in relation to training—
  - (a) by means of courses provided in accordance with the regulations;
  - (b) by means of study conducted in accordance with the regulations; and
  - (c) by any other prescribed means.
- (3) Regulations under this Article may include provision exempting persons from any requirement imposed by virtue of paragraph (1); and regulations including such provision may (in particular)—
  - (a) limit an exemption to persons in prescribed circumstances;
  - (b) attach conditions to an exemption;
  - (c) regulate applications for an exemption; and

- (d) include provision for the evidencing by a person of his being within an exemption.
- (4) Regulations under this Article may provide that training is not to be taken into account for the purposes of the regulations if it was completed before such time as is prescribed.
- (5) Regulations under this Article may, in particular, include—
  - (a) provision about the nature of training;
  - (b) provision for the approval by the Department of persons providing training or giving instruction as part of training and the withdrawal of approval (including provision for appeals to a court of summary jurisdiction acting for the petty sessions district in which the person resides against refusal and withdrawal of approval) and provision for exemptions from any requirement of approval;
  - (c) provision for the training or assessment, or the supervision of training or assessment, of persons providing training or giving instruction as part of training;
  - (d) provision for the evidencing of the successful completion of training; and
  - (e) provision authorising the Department to make available information about persons providing training or giving instruction as part of training.
- (6) Regulations under this Article may include provision for the charging of reasonable fees in respect of the exercise of any function conferred or imposed on the Department by the regulations.

*Disabled persons: emergency control certificates, etc.*

#### **Assessment of disabled person's ability to control a motor vehicle in an emergency**

- 65.—**(1) This Article applies to any person who, by or under any provision of this Part—
- (a) is authorised to apply to undergo an emergency control assessment; or
  - (b) is required by the Registrar to submit himself for an emergency control assessment.
- (2) An emergency control assessment is an assessment of whether the person being assessed would be able either—
- (a) to take control of a motor vehicle of a class covered by his disabled person's limited driving licence without any modifications; or
  - (b) to take control of a motor vehicle of a class covered by his disabled person's limited driving licence only with appropriate modifications of such a motor vehicle;
- if an emergency arose while he was giving, in such a motor vehicle, instruction in the driving of an appropriate motor vehicle.
- (3) Where a person is authorised to apply to undergo an emergency control assessment, for his application to be duly made, it must be made to the Department and must include—
- (a) a declaration by the person making the application, in such form as the Department may require, stating every relevant disability or prospective disability from which the person is suffering or has at any time (or, if a period is prescribed by regulations, has during that period) suffered; and
  - (b) such other particulars as the Department may require.
- (4) Where a person is required to submit himself for an emergency control assessment he must furnish to the Department such particulars as the Department may require.
- (5) Regulations may require a person who applies to undergo an emergency control assessment (or a part of such an assessment), or is required to submit himself for such an assessment, to pay a fee to the Department, or such other person as the Department may specify, in respect of that assessment.
- (6) An emergency control assessment—

- (a) shall be conducted by a person appointed by the Department (in this Article referred to as “the assessor”); and
- (b) shall consist of such practical tests and other means of assessment as the Department may determine.

(7) On completing an emergency control assessment of a person, the assessor shall grant him an emergency control certificate if he is satisfied either—

- (a) that, in the circumstances mentioned in paragraph (2), that person would be able to take control of a motor vehicle of a class covered by his disabled person’s limited driving licence without any modifications; or
- (b) that, in the circumstances mentioned in paragraph (2), that person would be able to take control of a motor vehicle of a class covered by his disabled person’s limited driving licence only with appropriate modifications of such a motor vehicle,

but if the assessor is not so satisfied, he shall refuse to grant a certificate to that person.

(8) An emergency control certificate granted to any person—

- (a) shall specify the class of motor vehicle covered by his disabled person’s limited driving licence in relation to which the assessor is satisfied as mentioned in paragraph (7)(a) or (b), specifying, in a case falling within sub-paragraph (b) the modifications that are appropriate; and
- (b) may include a recommendation that the person should undergo a further emergency control assessment after the end of such period as is specified in the certificate,

and shall otherwise be in such form as the Department may determine.

(9) Different modifications for different classes of motor vehicle may be specified under paragraph (8)(a).

(10) The assessor who has assessed any person under this Article—

- (a) if he grants an emergency control certificate, shall—
  - (i) give or send the certificate to that person; and
  - (ii) send a copy of the certificate to the Registrar; and
- (b) if he refuses to grant such a certificate, shall—
  - (i) give notice in writing to that person of his decision and of the reasons for it; and
  - (ii) send a copy of the notice to the Registrar.

### **Further assessments**

**66.**—(1) A person who has undergone an emergency control assessment may not apply to undergo a further assessment until after the end of—

- (a) the period of 6 months beginning with the date of his most recent previous assessment; or
- (b) such other period as may be prescribed by regulations,

unless, by virtue of Article 53(8)(c) or paragraph (2), he is required by the Registrar to submit himself for a further assessment.

(2) A person who is not registered but who holds a current emergency control certificate shall, if at any time required to do so by the Registrar, submit himself for a further emergency control assessment on the day (within such period as may be prescribed by regulations) and at the place specified by the Registrar.

(3) In considering whether to exercise, in respect of any person, his power under paragraph (2), the Registrar shall have regard to any recommendation included in that person’s current emergency

control certificate as to the period after the end of which he should undergo a further emergency control assessment.

(4) A person who—

- (a) holds a current emergency control certificate; but
- (b) wishes to undergo a further emergency control assessment with a view to establishing his ability to control any class of motor vehicle not specified in his current certificate,

may, with the consent of the Registrar and subject to paragraph (1), apply to undergo a further assessment; but a person applying to undergo a further assessment under this paragraph shall not be required to make the declaration required by Article 65(3)(a).

(5) An application made under paragraph (4) for the consent of the Registrar shall be made in such manner and be accompanied by such particulars as the Registrar may require.

(6) If, as a result of undergoing a further emergency control assessment, a person is granted a fresh emergency control certificate the grant of that certificate shall, with effect from the date on which it is notified as taking effect, revoke the previous certificate.

(7) If, in the case of an emergency control assessment conducted in respect of a person who holds a current emergency control certificate, the assessor is not satisfied as to either of the matters specified in sub-paragraphs (a) and (b) of Article 65(7), he shall revoke the certificate.

(8) Where a person's emergency control certificate is revoked under paragraph (7) the assessor shall—

- (a) serve notice in writing on him specifying—
  - (i) the grounds for the revocation; and
  - (ii) the date, not being earlier than the date of service of the notice, on which the revocation is to take effect; and
- (b) send a copy of the notice to the Registrar.

(9) In this Article “assessor” has the same meaning as in Article 65.

#### **Duty to disclose further disability**

**67.—**(1) If at any time a registered disabled instructor becomes aware—

- (a) that he is suffering from a relevant or prospective disability which he has not previously disclosed to the Department under Article 53(3) or Article 65(3) or (4); 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 his current emergency control certificate was granted,

he must forthwith notify the Registrar in writing of the nature and extent of his disability.

(2) Paragraph (1) does not require a person to notify the Registrar if—

- (a) the disability is one from which he has not previously suffered; and
- (b) he has reasonable grounds for believing that the duration of the disability will not extend beyond the period of 3 months beginning with the date on which he first becomes aware that he suffers from it.

(3) A person who fails without reasonable excuse to notify the Registrar as required by paragraph (1) is guilty of an offence.



### **Offences relating to giving by disabled person of paid driving instruction**

**68.**—(1) No registered disabled instructor shall give paid instruction in the driving of a motor vehicle unless he is the holder of a current emergency control certificate.

(2) No registered disabled instructor shall give, in any unauthorised motor vehicle, paid instruction in the driving of a motor vehicle.

(3) Where a registered disabled instructor gives instruction in contravention of this Article—

- (a) the instructor;
- (b) if the instructor is employed by another person to give that instruction, that other person (as well as the instructor); and
- (c) if the instructor is a franchisee under a driving instruction franchise, the franchisor (as well as the instructor),

is guilty of an offence.

(4) In paragraph (2) “unauthorised motor vehicle”, in relation to any person, means a motor vehicle other than one which falls within the class of motor vehicle specified in his current emergency control certificate and, where modifications are specified in that certificate, is modified in accordance with the specification.

### *General and supplemental*

#### **Power to alter registration period**

**69.**—(1) Regulations may alter—

- (a) the period at the end of which a person’s registration is terminated (unless extended or further extended);
- (b) the period for which a person’s registration may be extended or further extended; and
- (c) the period before the end of which it may be directed that any application by a person to be registered shall not be entertained.

(2) Regulations under this Article may amend this Part.

#### **Evidence of registration**

**70.**—(1) Regulations may prescribe—

- (a) certificates or other items that may be issued to registered persons to be displayed as evidence of their registration; and
- (b) a title or other description which may be used as such evidence.

(2) If at any time a person who is not registered—

- (a) displays a certificate or other item prescribed under paragraph (1);
- (b) uses a title or other description prescribed under paragraph (1)(b); or
- (c) uses a title or other description implying that he is registered,

he is guilty of an offence unless he proves that he did not know, and did not have reasonable cause to believe, that he was not registered at that time.

(3) If a person carrying on business in the provision of driving instruction at any time—

- (a) uses a title or other description prescribed under paragraph (1)(b) in relation to any relevant person who is not appropriately registered; or

(b) issues any advertisement or invitation calculated to mislead with respect to the extent to which relevant persons are appropriately registered, he is guilty of an offence unless he proves that he did not know, and did not have reasonable cause to believe, that the relevant person was, or relevant persons were, not appropriately registered at that time.

(4) For the purposes of paragraph (3)—

- (a) a relevant person is a person who is employed by the person carrying on business to give driving instruction, or is a franchisee giving driving instruction under a driving instruction franchise under which that person is the franchisor; and
- (b) a relevant person is appropriately registered if he is registered in respect of the giving of the description of driving instruction which he is employed to give or which is given to him under the driving instruction franchise.

#### **Surrender of certificates etc.**

**71.** Where the registration of a person to whom a certificate or other item prescribed under Article 70(1)(a) has been issued is terminated, that person must, if so required by the Registrar by notice in writing, surrender the certificate or other item to the Registrar within the period of 14 days beginning with the day on which the notice is given and, if he fails to do so, he is guilty of an offence.

#### **Production of certificates etc. to constables and authorised persons**

**72.—(1)** A person to whom a certificate or other item prescribed under Article 70 is issued must, on being so required by a constable or any person authorised in writing by the Department in that behalf, produce the certificate or other item for examination.

(2) Where—

- (a) a person's registration is terminated; and
- (b) he fails to satisfy an obligation imposed on him by Article 71,

a constable or a person authorised in writing by the Department in that behalf may require him to produce any such certificate or other item issued to him, and upon its being produced may seize it and deliver it to the Registrar.

(3) A person who is required under paragraph (1) or (2) to produce a certificate or other item and fails to do so is, subject to paragraph (4), guilty of an offence.

(4) In proceedings against any person for an offence under paragraph (3), it shall be a defence for him to show that—

- (a) within 7 days beginning with the day following that on which the production of the certificate or other item was so required, it was produced—
  - (i) where the requirement was made by a constable, at a police station specified at the time the production was required by the person required to produce the certificate or other item;
  - (ii) where the requirement was made by a person other than a constable, at a place specified at that time by that person; or
- (b) the certificate or other item was produced at that police station or, as the case may be, place as soon as was reasonably practicable; or
- (c) it was not reasonably practicable for it to be produced at that police station or, as the case may be, place before the day on which the proceedings were commenced,

and for the purposes of this paragraph the service of a summons on the accused shall be treated as the commencement of the proceedings.

### **Offences by corporations**

73. Section 20(2) and (3) of the Interpretation Act (Northern Ireland) 1954 (c. 33) (offences by corporations) shall apply to this Part as if the requirement for consent in subsection (3) were omitted.

### **Service of notices**

74. For the purposes of section 24 of the Interpretation Act (Northern Ireland) 1954 (c. 33) (service of documents) a person's usual or last known place of abode or business shall be, in the case of a person whose name is included in the register, his address on the register.

### **Fees**

75.—(1) Regulations may make provision for the payment of such fees (if any) as may be prescribed in connection with registration or extension of registration.

(2) Regulations may make provision for the repayment (in whole or in part) of any fee payable by virtue of any provision of this Part in such circumstances as may be prescribed.

### **Regulations**

76. Regulations under any provision of this Part—

- (a) shall be subject to negative resolution;
- (b) may make incidental, supplementary, consequential or transitional provision or savings.

### **Application to Crown**

77.—(1) Subject to paragraph (2), the provisions of this Part apply to vehicles and persons in the public service of the Crown.

(2) The Department may make regulations exempting from the provisions of this Part, or of any regulation made under this Part, vehicles and persons in the public service of the Crown.

### **Offences**

78. The entries set out in Schedule 6 relating to offences under this Part shall be added at the end of Part I of Schedule 1 to the Offenders Order.