

**ROAD TRAFFIC (DRIVING DISQUALIFICATIONS)
(NORTHERN IRELAND) ORDER 2003**

S.I. 2003 2903

EXPLANATORY MEMORANDUM

INTRODUCTION

1. The Road Traffic (Driving Disqualifications) (Northern Ireland) Order 2003 (“the Order”) was made on 13 November 2003.
2. This Explanatory Memorandum has been prepared by the Department of the Environment (“the Department”) in order to assist the reader in understanding the Order. It does not form part of the Order.

BACKGROUND AND POLICY OBJECTIVES

3. Northern Ireland and Great Britain have separate driver licensing authorities, and the main purposes of the Order are to enable driving disqualifications imposed in Great Britain to have effect in Northern Ireland and to apply the fixed penalty procedure to offences committed by Great Britain licence holders in Northern Ireland. Present legislation permits mutual recognition of driving licences, allowing a Northern Ireland licence holder to drive in Great Britain, and vice versa. However, there has been no statutory provision to enable the mutual recognition of driving disqualifications between the two jurisdictions. Accordingly, a holder of a Northern Ireland licence who is disqualified for driving in Great Britain is free to continue to drive in Northern Ireland. The reverse is also true. Furthermore, a Great Britain licence holder who commits an endorsable driving offence in Northern Ireland cannot make use of the fixed penalty procedure in Northern Ireland, and vice versa. Instead, the driver is prosecuted in court and will incur the additional inconvenience of a court appearance and additional costs.
4. The Order will provide a framework in Northern Ireland for the mutual recognition of driving disqualifications and endorsable offences. Reciprocal measures for Great Britain are contained in the Crime (International Co-operation) Act 2003. The intention is that these reciprocal provisions will come into force at the same time in each jurisdiction. There is also provision in the Order for recognition in Northern Ireland of relevant disqualifications imposed in the Isle of Man, the Channel Islands and Gibraltar.
5. Enforcement of penalties for road traffic offences will be improved by ensuring that such offences committed in either jurisdiction are penalised in both. The enhanced deterrent effect of such provision can be expected to encourage improved driver behaviour and thus contribute to a reduction in road casualties.
6. The Order will also remove two anomalies related to driving licences in order to make the mutual recognition of driving disqualifications more effective. First, it will cease to be permissible for an individual to hold both a Great Britain and a Northern Ireland licence. Second, Great Britain provisional licences will no longer be treated as full licences in Northern Ireland.

CONSULTATION

7. A consultation paper entitled “Great Britain and Northern Ireland: Mutual Recognition of Driving Disqualifications and Endorsements” was issued on 5 February 2001. The consultation exercise was undertaken jointly by the Department of the Environment in Northern Ireland and the then Department of the Environment, Transport and the Regions in Great Britain. In Northern Ireland the paper was issued to 109 interested organisations and included all NI political parties, Assembly Members and the Environment Committee. The Consultation Document along with the full list of consultees can be found on the internet at the following web address –

www.doeni.gov.uk/roadsafety/

8. Responses were received from 22 of the Northern Ireland consultees. Nineteen of the respondents stated they were in favour, for reasons that included “the current situation is illogical, it detracts from road safety throughout the UK; there is a need to remove loopholes and anomalies”. The remaining three respondents (local authorities) indicated that they had “noted the proposals”. The Assembly’s Environment Committee provided a response supporting the proposals.

COMMENTARY ON ARTICLES

9. The Order removes driver licensing anomalies in the treatment in Northern Ireland of holders of Great Britain driving licences. In conjunction with the corresponding provision made for Great Britain in Chapter 2 of Part 3 of the Crime (International Co-operation) Act 2003 this will produce a more coherent licensing system within the United Kingdom. A person disqualified from holding or obtaining a driving licence in Great Britain, the Isle of Man, the Channel Islands or Gibraltar will be similarly disqualified in Northern Ireland. The Department's powers to revoke a licence either on grounds of medical disability, or during a new driver's probationary period are extended to holders of Great Britain driving licences in Northern Ireland.
10. The Order contains 8 Articles and 2 Schedules. Articles 1 and 2 are introductory provisions. Articles 3 to 6 form the main body of the Order and are described below, while Articles 7 and 8 relate to consequential amendments, repeals and supplementary and consequential provision. Schedule 1 contains minor and consequential amendments and Schedule 2 lists provisions to be repealed.

Recognition in Northern Ireland of disqualifications in Great Britain, etc.

Article 3 amends the Road Traffic (Northern Ireland) Order 1981 to introduce the recognition in Northern Ireland of relevant driving disqualifications imposed in Great Britain, the Isle of Man, the Channel Islands and Gibraltar. So long as a person is subject to a driving disqualification imposed in Great Britain, the Isle of Man, the Channel Islands or Gibraltar, he will also be disqualified in Northern Ireland. This remedies an existing anomaly in the driver licensing systems within the UK, under which none of these jurisdictions recognised driving disqualifications imposed in any of the others.

Endorsement of counterparts issued to Great Britain licence holders

Article 4 provides that the holder of a Great Britain driving licence committing a road traffic offence in Northern Ireland may be subject to the fixed penalty procedure that applies to road traffic offences, like the holders of Northern Ireland licences. The fixed penalty option is not currently available in Northern Ireland to the holder of a Great Britain driving licence. The Article facilitates endorsement of a Great Britain licence for a road traffic offence or offences committed in Northern Ireland for which the fixed penalty system is applied.

Paragraph (1) inserts a new Article 19F into the Road Traffic (Northern Ireland) Order 1981, enabling the Department to issue a driving licence counterpart to the holder of a Great Britain driving licence so as to enable endorsement by authorities in Northern Ireland. The Article makes provisions similar to those already applied to the holder of a European Community driving licence other than from Northern Ireland or Great Britain. It enables the Department to endorse a Great Britain driving licence, obliging the Department to return it to the holder. Article 19F(5)

*This Explanatory Memorandum refers to the Road Traffic
(Driving Disqualifications) (Northern Ireland) Order 20032903*

empowers the Department to require surrender of the counterpart or delivery of the licence to it. It will be an offence to drive a motor vehicle on a road whilst unreasonably failing to surrender the counterpart for endorsement or for correction of particulars of the holder's name or address.

Paragraph (2) inserts new Articles 92ZA and 92ZB into the Road Traffic Offenders (Northern Ireland) Order 1996, setting out the application of that Order to Great Britain licence holders. The provisions of the 1996 Order to be applied to Great Britain licence holders are those which apply to the fixed penalty system for traffic offences committed in Northern Ireland. The court procedures followed when penalty points are endorsed on a driving licence are extended to Great Britain licences. In particular, this includes various aspects of procedure when a driver is both disqualified and gains penalty points at the same time.

Prohibition on holding or obtaining Northern Ireland and Great Britain licences

Article 5 amends the Road Traffic (Northern Ireland) Order 1981 to prevent persons from holding or obtaining both a Northern Ireland and Great Britain driving licence.

Paragraph (2) prevents a Great Britain licence holder who obtains a Northern Ireland licence from continuing to be able to drive in Northern Ireland by virtue of the Great Britain licence. It provides that, on surrender of the Great Britain licence when a Northern Ireland licence is granted, the authorisation to drive a vehicle in Northern Ireland by virtue of the Great Britain licence ceases. The Department must send the Great Britain licence and its counterpart back to the Great Britain authorities.

Paragraph (3) requires the Department, where it is satisfied that a Great Britain driving licence has been granted to the holder of a Northern Ireland driving licence and it has received the Northern Ireland licence, to serve written notice on the person concerned that the Northern Ireland licence is revoked.

Paragraph (4) seeks to prevent duplication of licences. It provides that a person holding a Great Britain licence to drive a particular class (or classes) of vehicle is disqualified from holding or obtaining a Northern Ireland licence to drive a motor vehicle of that class (or classes), if he does not surrender the Great Britain licence to the Department and remains authorised to drive in Northern Ireland as a holder of that licence.

Disability and prospective disability

Article 6 amends the provisions of the Road Traffic (Northern Ireland) Order 1981 relating to disability and prospective disability of a licence holder.

Paragraph (2) inserts a new Article 19G into the Road Traffic (Northern Ireland) Order 1981, which provides for revocation by the Department of the authorisation to drive in Northern Ireland conferred by a Great Britain driving licence, on grounds of disability or prospective disability. Currently the Department has a power so to revoke a driving licence issued in Northern Ireland as set out at Article 10 of the Road Traffic (Northern Ireland) Order 1981. The new provisions parallel those which already exist for revocation of a Northern Ireland driving licence on medical grounds, except that the revocation extends only to the right of Great Britain licence holders to drive in Northern Ireland conferred by virtue of Article 19E(1) of the Road Traffic (Northern Ireland) Order 1981. The Department may require the Great Britain licence holder to deliver up his licence and the relevant counterparts, so that it may be returned to the Great Britain authorities.

Paragraph (2) also inserts a new Article 19H into the Road Traffic (Northern Ireland) Order 1981. This Article places the holders of Great Britain licences, if resident in Northern Ireland, under the same duty as Northern Ireland licence holders to provide information relating to disabilities.

Paragraph (3) makes provision for Northern Ireland licences, where the right to drive in Great Britain has been revoked on medical grounds there under a corresponding provision of Great Britain law. In this event the Department may revoke the licence.

In either circumstance, the Department may on application grant a new licence for a period that it determines. For example in the case of an individual suffering from a degenerative disease likely to progressively impair his or her ability to drive, a short period licence might be granted.

Consequential amendments and repeals

Article 7 provides for a number of minor and consequential amendments to, and repeals of, existing legislation. The details are contained in Schedules 1 and 2.

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Supplementary and consequential provisions

Article 8 enables the Department to make any further provision that is necessary to give full effect to the provisions of the Order. Any such supplementary or consequential provision would be made by order, subject to negative resolution.

Minor and consequential amendments

Schedule 1 contains minor and consequential amendments that follow from the provisions contained in Articles 3 to 6.

Paragraphs 1 to 10 contain amendments to the Road Traffic (Northern Ireland) Order 1981. Significant among these is **Paragraph 8** that amends Article 19E of that Order and provides that the holder of a Great Britain provisional driving licence will no longer be treated in Northern Ireland as the holder of a full Great Britain driving licence. A person's authorisation to drive in Northern Ireland as the holder of a Great Britain licence extends only to driving in accordance with that licence.

Paragraphs 11 to 15 make consequential amendments to the Road Traffic Offenders (Northern Ireland) Order 1996.

Paragraphs 16 onwards amend the Road Traffic (New Drivers) (Northern Ireland) Order 1997. The amendments provide for the early termination in Northern Ireland of the probationary period for the holder of a Great Britain driving licence in similar circumstances to those applying to the holder of a Northern Ireland driving licence, except that, as regards revocation, it is not the licence which is revoked, but the permission to drive in Northern Ireland conferred by Article 19E of the 1981 Order. As for revocations on medical grounds, the Department is obliged to inform the licensing authority in Great Britain of any such revocation involving a Great Britain licence. The amendments also provide that a Great Britain licence holder whose entitlement has been revoked under a corresponding provision of Great Britain law shall be subject to the requirement to satisfy the Department on a re-test.

COMMENCEMENT

Articles 1 and 2 will commence on the expiration of 7 days from the day on which the Order is made. The remaining Articles will commence at a date to be determined and will be introduced by means of Commencement Order(s).