

2015 No. 6

ROAD TRAFFIC AND VEHICLES

**The Motor Vehicles (Driving Licences) (Amendment)
Regulations (Northern Ireland) 2015**

Made - - - - *15th January 2015*

Coming into operation - *23rd February 2015*

The Department of the Environment makes the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(a) and Articles 5(3) and (4), 19C(1), (1A)(a) and (f) and (2) and 218(1) of the Road Traffic (Northern Ireland) Order 1981(b).

The Department of the Environment is designated for the purposes of section 2(2) of the European Communities Act 1972(c) in relation to the licensing of drivers of motor vehicles.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Motor Vehicles (Driving Licences) (Amendment) Regulations (Northern Ireland) 2015 and shall come into operation on 23rd February 2015.

(2) The Interpretation Act (Northern Ireland) 1954(d) applies to these Regulations as it applies to an Act of the Assembly.

Amendment of the Road Traffic (Northern Ireland) Order 1981

2.—(1) The Road Traffic (Northern Ireland) Order 1981 is amended in accordance with paragraphs (2) to (4).

(2) In Article 13A(1)(e) (residence requirement), for sub-paragraph (d) substitute—

“(d) in any other case, the applicant is lawfully resident in the United Kingdom and—

(i) is also normally resident in Northern Ireland, or

(ii) has been attending a course of study in Northern Ireland during the period of 6 months ending on that date.”

(3) In Article 15(f) (duration of licences), after paragraph (8A) insert—

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- (a) 1972 c. 68; section 2(2) was amended by section 27(1) of the Legislative and Regulatory Reform Act 2006 (c.51) and Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c.7)
- (b) S.I. 1981/154 (N.I. 1); Article 19C was substituted by Schedule 1 to S.I. 1991/197 (N.I. 3) and amended by paragraph 8 of Schedule 3 to S.I. 1996/1320 (N.I. 10), paragraph 11 of Schedule 1 to S.R. 1996 No. 426, paragraph 1 of Schedule 2 to S.R. 1997 No. 241, paragraph 8 of the Schedule to S.R. 2002 No. 374 and Article 34 of S.I. 2007/916 (N.I. 10)
- (c) S.I. 1981/1536
- (d) 1954 c. 33 (N.I.)
- (e) Article 13A was inserted by section 46(4) of the Immigration Act 2014 (c. 22)
- (f) Article 15 was substituted by Schedule 1 to S.I. 1991/197 (N.I. 3) and paragraph (8A) was inserted by paragraph 6(4) of the Schedule to S.R. 2002 No. 374

“(8AA) The Department may not grant a new licence to a person under paragraph (8) or (8A) unless, on the date on which the licence is granted, the person is lawfully resident in the United Kingdom and—

- (a) is also normally resident in Northern Ireland, or
- (b) has been attending a course of study in Northern Ireland during the period of 6 months ending on that date.

(8AB) For the purposes of paragraph (8AA) a person is not lawfully resident in the United Kingdom if the person requires leave to enter or remain in the United Kingdom but does not have it.”.

(4) In Article 19D(a) (interpretation), after paragraph (1A) insert—

“(1B) For the purposes of this Part a person is normally resident in Northern Ireland if—

- (a) the person lives in Northern Ireland for at least 185 days in each calendar year because of—
 - (i) personal and occupational ties, or
 - (ii) close personal ties, or
- (b) the person has personal ties in Northern Ireland and occupational ties in another place in the EEA and consequently lives in turn in Northern Ireland and that other place.

(1C) For the purposes of this Part a person is normally resident in the United Kingdom if—

- (a) the person lives in the United Kingdom for at least 185 days in each calendar year because of—
 - (i) personal and occupational ties, or
 - (ii) close personal ties, or
- (b) the person has personal ties in the United Kingdom and occupational ties in another place in the EEA and consequently lives in turn in the United Kingdom and that other place.

(1D) In order to be normally resident in Northern Ireland or the United Kingdom by virtue of paragraph (1B)(b) or (1C)(b) a person must return there regularly, except when the person is living in another place in the EEA in order to carry out a task of a definite duration.

(1E) For the purposes of paragraphs (1B) and (1C) attendance at a university or school is not a personal or occupational tie.”.

Amendment of the Motor Vehicles (Driving Licences) Regulations

3.—(1) The Motor Vehicles (Driving Licences) Regulations (Northern Ireland) 1996(b) are amended in accordance with paragraphs (2) to (7).

(2) In regulation 5(c) (competence to drive classes of vehicle) omit paragraph (2).

(3) After regulation 16 (lost or defaced licences) insert—

“Exchangeable Licences

16A.—(1) Where an exchangeable licence is exchanged for a licence such an exchange must be recorded on the licence and on any subsequent renewal or replacement.

(a) Article 19D was substituted by Schedule 1 to S.I. 1991/197 (N.I. 3) and paragraph (1A) was inserted by Article 7(8) of S.I. 1991/197 (N.I.3)

(b) S.R. 1996 No. 542; relevant amending Regulations are S.R. 2012 No. 170 and S.R. 2013 No. 298

(c) Regulation 5 was amended by regulation 3(5) of S.R. 2012 No. 170 and regulation 2(3) of S.R. 2013 No. 298

- (2) An exchange as described in paragraph (1) may only occur if the exchangeable licence has been surrendered to the Department.”.
- (4) In regulation 18 (persons by whom practical and unitary tests may be conducted)—
- (a) in paragraph (4)(a) omit the words from “and Department” to the end;
 - (b) after paragraph (4) add—
 - “(5) The Department must ensure that a person appointed under the provisions of paragraph (1)—
 - (a) before 19th January 2013 meets the quality assurance and regular periodic training arrangements in place in accordance with paragraph 4 of Annex IV; and
 - (b) on or after 19th January 2013 meets and maintains the minimum standards set out in paragraphs 1, 2.1 and 2.2 of Annex IV.
 - (6) The Department must establish arrangements for authorising a person appointed under the provisions of paragraph (1) to conduct driving tests and ensure that such arrangements are in compliance with paragraphs 2.3, 3 and 5.1 of Annex IV.
 - (7) The Department must ensure that there are in place quality assurance and regular periodic training arrangements of persons appointed under the provisions of paragraph (1) in accordance with paragraph 4 of Annex IV.
 - (8) In this regulation “Annex IV” means Annex IV to Directive 2006/126/EC of the European Parliament and of the Council on driving licences**(b)**.”.
- (5) In regulation 27(1)(c) (further requirements at tests), for paragraph (1) substitute—
- “(1) A person submitting to a theory test, special manoeuvres test, practical test or unitary test must satisfy the residence requirement in Article 13A(1)(d) of the Order as if that person were making an application under Article 13 of that Order, except that the requirement shall be met at the time of attending the test.”.
- (6) In regulation 34 (upgrading of entitlements by virtue of passing second test)—
- (a) for paragraph (1) substitute—
 - “(1) A person who has passed a test prescribed in respect of category D and category C+E is deemed, subject to paragraph (2), competent to drive (in addition to the classes of motor vehicle in respect of which the tests were passed) vehicles included in the category D+E.”;
 - (b) in paragraph (4) for “Tables A and B” substitute “Table B in Schedule 8”;
 - (c) in paragraph (5) for “Tables A and B” substitute “Table B in Schedule 8”;
 - (d) in paragraph (6)—
 - (i) for “Tables A and B” substitute “Table B in Schedule 8”; and
 - (ii) for “those Tables” substitute “that Table”; and
 - (e) in paragraph (8) for “B, C or D” substitute “C or D”.
- (7) In Schedule 8(d) (upgraded entitlements on passing second test etc.)—
- (a) omit Table A; and
 - (b) for Table B substitute—

(a) Paragraph (4) was amended by regulation 2(5)(b) of S.R. 2013 No. 298
 (b) OJ No. L 403, 30.12.2006, p.18 to which there are amendments not relevant to these Regulations
 (c) Regulation 27(1) was amended by regulation 3(12) of S.R. 2012 No. 170
 (d) Table B of Schedule 8 was substituted by regulation 2(11) of S.R. 2013 No. 298

“Table B

<i>Manual test pass in category (or sub-category)</i>										
<i>(A)</i>	<i>(1)</i>	<i>(2)</i>	<i>(3)</i>	<i>(4)</i>	<i>(5)</i>	<i>(6)</i>	<i>(7)</i>	<i>(8)</i>	<i>(9)</i>	<i>(10)</i>
<i>Automatic Test pass</i>	<i>B</i>	<i>B+E</i>	<i>C1</i>	<i>C</i>	<i>C1+E</i>	<i>C+E</i>	<i>D1</i>	<i>D</i>	<i>D1+E</i>	<i>D+E</i>
C1	—	—	—	—	C1	C1 & C1+E	C1	C1	C1	C1
C	C	C	C	—	C	C	C1 & C	C	C1 & C	C
C1+E	—	—	—	C1+E	—	—	—	C1+E	C1+E	C1+E
C+E	C+E	C+E	C+E	C+E	C+E	—	C+E	C+E & D+E	C+E	C+E
D1	—	—	D1	D1	D1	D1	—	—	—	D1 & D1+E
D	D	D	D	D	D	D & D+E	D	—	D	D
D1+E	—	—	—	D1+E	D1+E	D1+E	—	D1+E	—	—
D+E	D+E	D+E	D+E	D+E	D+E	D+E	D+E	D+E	D+E	—”

Sealed with the Official Seal of the Department of the Environment on 15th January 2015



Iain Greenway
A senior officer of the
Department of the Environment

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make further provision to implement Directive 2006/126/EC of the European Parliament and of the Council of 20th December 2006 on driving licences (“the Third Driving Licences Directive”) (O.J. L403, 30.12.2006, p. 18).

Regulation 2 inserts definitions and related provisions into the Road Traffic (Northern Ireland) Order 1981 (“the 1981 Order”) for the purpose of determining when a person is resident in Northern Ireland or the United Kingdom for driver licensing purposes in accordance with Articles 7(1)(e), 7(3)(b), 11(1) and (5) and 12 of the Third Driving Licences Directive. Being “normally resident” in the United Kingdom or Northern Ireland is a pre-condition to the issue of a driving licence including as a result of these amendments when applying for a new licence at the end of its administrative validity period, or when taking a driving test. In some cases, however, attending a course of study for a period of six months is permitted as an alternative to being normally resident.

Regulation 3(2) removes the exemption for category C licence holders to drive category D vehicles where the category D vehicle is damaged or defective and being driven for repair or is being road tested after repair if the licence holder does not have a category D entitlement.

Regulation 3(3) requires that where an exchangeable licence is exchanged for a Northern Ireland licence such an exchange shall be marked on the Northern Ireland licence.

Regulation 3(4) requires the Department to ensure that persons appointed as examiners meet and maintain the minimum standards which are set out in Annex IV of the Directive. It also requires that the Department establish arrangements for authorising an examiner to conduct driving tests in compliance with paragraphs 2.3, 3 and 5.1 of Annex IV and ensure that there are in place quality assurance and regular periodic training arrangements in line with the provisions of paragraph 4 of Annex IV of the Directive. Those examiners who were appointed before 19th January 2013 are only required to comply with the quality assurance and regular periodic training arrangements in accordance with paragraph 4 of Annex IV of the Directive.

Regulation 3(5) amends regulation 27(1) of the Motor Vehicles (Driving Licences) Regulations (Northern Ireland) 1996 to take account of relevant amendments to the 1981 Order made by the Immigration Act 2014 and by regulation 2 of these Regulations.

Regulation 3(6) and (7) makes amendments to ensure that only the equivalences between categories CE, DE and D which are permitted by Article 6(2)(b) of the Third Driving Licences Directive are permitted in the UK.

An Explanatory Memorandum and Transposition Note have been produced and are available from Road Safety and Vehicle Regulation Division, Department of the Environment, Clarence Court, 10-18 Adelaide Street, Town Parks, Belfast BT2 8GB or viewed online at <http://www.legislation.gov.uk/nisr>.

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