

## **EXPLANATORY MEMORANDUM TO**

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

#### **S.R. 2015 No. 6**

#### **1. Introduction**

- 1.1. This Explanatory Memorandum has been prepared by the Department of the Environment to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under section 2(2) of the European Communities Act 1972 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 and is subject to the negative resolution procedure.

#### **2. Purpose**

- 2.1. These Regulations further transpose Directive 2006/126/EC of the European Parliament and of the Council of 20th December 2006 on driving licences (“the Directive”). The Directive entered into force on 19th January 2013 and sets out the requirements that Member States must have in place for drivers to obtain driving licences, including the security arrangements for production and issue of the driving licence.
- 2.2. These Regulations amend the Motor Vehicles (Driving Licences) Regulations (Northern Ireland) 1996 (“the 1996 Regulations”) by clarifying arrangements such as the minimum standards a Driving Examiner must meet before they are appointed to conduct practical tests and the requirements for training and quality assurance, recording the country of origin on a Northern Ireland (“NI”) licence when it is exchanged in NI, meeting residency requirements prior to the granting of a driving licence, aligning UK driving licence equivalences with those allowed in the Directive as regards lorry and bus entitlements and the exemptions for bus and lorry trailer entitlements.

#### **3. Background**

- 3.1. The Directive was originally transposed by the Motor Vehicles (Driving Licences) (Amendment) Regulations (Northern Ireland) 2012 but it was identified that there were some areas which did not clearly transpose the requirements of the Directive. These Regulations will remedy this.
- 3.2. Persons who apply for a driving licence, the renewal of an administrative validity period for their driving licence or attend a driving test are required to satisfy certain residency requirements. In particular, they must normally be resident in NI or, if they are applying to exchange their Community driving licence, the UK.
- 3.3. These Regulations amend Article 19D (interpretation) of the Road Traffic (Northern Ireland) Order 1981 (“the Order”) to define the conditions for meeting the normal residence test as required by Article 12 (normal residence) of the Directive.

- 3.4. Amendments are also made to Article 13A(1)(d) of the Order to provide that attending a course of study is a permitted alternative to meeting the conditions of normal residence, as required in Article 7 of the Directive.
- 3.5. The normal residence requirement is inserted into Article 15 of the Order to give effect to Article 7(3) of the Directive in respect of the renewal of licences on the expiry of an administrative validity period. Regulation 27 (further requirements at test) of the 1996 Regulations is amended to ensure that the requirement for normal residence is properly met when attending a test.
- 3.6. With regard to lorry and bus entitlements (driving licence categories C and D), NI has had an automatic entitlement for drivers with the entitlement to drive both a minibus (category D1) and a goods vehicle with trailer (category C + E or C1 + E) to drive a minibus with trailer (category D1 + E) without taking a further test. The Directive does not permit this and these Regulations will require new drivers to take an appropriate test.
- 3.7. These Regulations remove the exemption for category C (lorry) licence holders to drive a damaged or defective bus (category D) to a place of repair, to where it is being tested after a repair has been carried out. This will only apply to new licence holders.
- 3.8. These Regulations set out the requirement to record the country of origin on a NI licence when it is exchanged in NI.

#### **4. Consultation**

- 4.1. A UK-wide consultation was carried out jointly by the Driver and Vehicle Licensing Agency (DVLA) and the Department of the Environment (DOE) between 23rd September and 21st October 2014. Eleven responses were received and the general view was positive from a road safety perspective.

#### **5. Equality Impact**

- 5.1. An Equality Screening Exercise has been completed and as no equality issues have been identified a full Equality Impact Assessment was considered unnecessary.

#### **6. Regulatory Impact**

- 6.1. A Regulatory Impact Assessment was not prepared as no adverse impact on the costs to the private or voluntary sectors is foreseen.

#### **7. Financial Implications**

- 7.1. None.

#### **8. Section 24 of the Northern Ireland Act 1998**

- 8.1. The Department has considered the matter of convention rights and community law and is satisfied that there are no matters of concern.

## **9. EU Implications**

- 9.1. These Regulations will further implement Directive 2006/126/EC of the European Parliament and of the Council of 20th December 2006 on driving licences (OJ No. L403, 30.12.2006, p.18).

## **10. Parity or Replicatory Measure**

- 10.1. These Regulations replicate for the most part GB SI 2014/3190: The Road Traffic Act 1988 and Motor Vehicles (Driving Licences) (Amendment) Regulations 2014.

## **11. Additional Information**

- 11.1. Not Applicable.

## DEPARTMENT OF THE ENVIRONMENT

### TRANSPOSITION NOTE

FURTHER IMPLEMENTATION OF DIRECTIVE 2006/126/EC OF THE EUROPEAN  
PARLIAMENT AND OF THE COUNCIL OF 20 DECEMBER 2006 ON DRIVING LICENCES  
(Recast), (Text with EEA relevance)

| Articles                   | Description   | Implementation  |
|----------------------------|---|---|
| Article 6                  | Sets out the rules on the staging and equivalences between various categories of licence.   | The equivalences in regulation 5(2) of the Motor Vehicles (Driving Licences) Regulations (Northern Ireland) 1996 (“the 1996 Regulations”) are not permitted under Article 6 of the Directive, and have been removed.  |
| Article 6(2)(b)            | Licences granted for category CE shall be valid for category DE as long as their holders are entitled to drive vehicles in category D.  | Regulation 34 of and Schedule 8 to the 1996 Regulations, Table A and Table B in the 1996 Regulations permit equivalences which are not permitted in the Directive. Table A has been omitted and Table B amended to remove the equivalences which are not permitted.   |
| Article 7(1)(e) and (3)(b) | <p>Driving licences shall be issued only to those applicants who have their normal residence in the territory of the Member State issuing the licence, or can produce evidence that they have been studying there for at least six months.</p> <p>The renewal of driving licences when their administrative validity expires shall be subject to normal residence in the Member State issuing the licence, or evidence the applicants have been studying there for at least six months.</p> | Article 13A(1)(d) of the Road Traffic (Northern Ireland) Order 1981 (“the 1981 Order”) is amended to provide that attending a course of study in NI for six months prior the date of application is an alternative to meeting the normal residence requirement. Article 15 of the 1981 Order is amended to provide that where a licence is issued under that Article (usually in respect of renewals at the end of the administrative validity period but also where a licence is reissued in accordance with that Article) the normal residence requirement must apply. Attending a course of study is also a permitted alternative to normal residence in Article 15. |
| Article 10 & Annex 4       | Driving examiners shall meet the minimum standards set out in Annex IV.   | Regulation 18 of the 1996 Regulations is amended to require compliance with the minimum standards for persons who conduct driving examinations as set out in Annex IV.  |
| Article 11(6)              | Member States shall record on the licence where an EU-licence is issued for exchange of a third country licence as well as any subsequent renewal or replacement.   | The new regulation 16A which is inserted into the 1996 Regulations incorporates this requirement.   |
| Article 12                 | The applicant is resident in the United Kingdom because of personal and occupational ties or, in the case of a person with no occupational ties, because of personal ties which show close links between that person and the place where he is living and is also normally residence in the United  | Article 19D of the 1981 Order is amended to include a definition for normal residence that closely follows the wording of Article 12 although necessarily defines normal residence in both the UK and NI separately to allow for the different scenarios arising from Article 15A.  |

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|  | Kingdom or has been attending a course of study in the United Kingdom during the period of six months ending on that date. |  |
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