
DRAFT STATUTORY INSTRUMENTS

2007 No.

The Road Traffic (Northern Ireland) Order 2007

PART III

DRIVER LICENSING

Driving otherwise than in accordance with a licence

30. In Article 3 of the Order of 1981—

- (a) in paragraph (1) (offence for a person to drive if he is not the holder of a licence) for the words “if he is not the holder of” substitute the words “otherwise than in accordance with”;
- (b) in paragraph (2) (offence to allow a person to drive if he does not hold a licence) for the words “if that other person is not the holder of a licence authorising him” substitute the words “otherwise than in accordance with a licence authorising that other person”.

Power to remove requirement to apply for licence after passing of test

31. In Article 5(1) of the Order of 1981 (grant of licence) after the words “he meets the relevant residence requirement and satisfies the Department” insert the words “(or, in the case of a test of competence passed under paragraph (a)(i) after a prescribed day, the Department is satisfied in such manner as may be prescribed)”.

Removal of two year period from passing of test in which to apply for licence

32. For Article 5(1)(a) of the Order of 1981 (requirement to apply for licence within two year period from date test of competence passed) substitute—

- “(a) that he has passed—
 - (i) the test of competence to drive prescribed by virtue of paragraph (3) not earlier than the appointed day, or
 - (ii) a Great Britain test of competence to drive which corresponds to such a test at some time during the period of 2 years ending with the date the application is made but not earlier than the appointed day, or
 - (iii) a test of competence which under paragraph (7) is a sufficient test at some time during the period of 2 years ending with the date the application is made but not earlier than the appointed day;

or that, if it is available to him, he satisfies the alternative requirement of Article 6; or”.

Physical fitness

33.—(1) In Article 9 of the Order of 1981 (requirements as to physical fitness of drivers) after paragraph (12) insert—

“(13) A person who holds a licence authorising him to drive a motor vehicle of any class and who drives a motor vehicle of that class on a road is guilty of an offence if the declaration included in accordance with paragraph (1) in the application on which the licence was granted was one which he knew to be false.”.

(2) In Article 11 of the Order of 1981 (provision of information relating to disabilities) after paragraph (3A) insert—

“(3B) A person who holds a licence authorising him to drive a motor vehicle of any class and who drives a motor vehicle of that class on a road is guilty of an offence if at any earlier time while the licence was in force he was required by paragraph (1) to notify the Department but has failed without reasonable excuse to do so.”.

(3) After Article 11 of the Order of 1981 insert—

“Driving after refusal or revocation of licence

11A.—(1) A person who drives a motor vehicle of any class on a road otherwise than in accordance with a licence authorising him to drive a motor vehicle of that class is guilty of an offence if—

(a) at any earlier time the Department—

(i) has in accordance with Article 9(3) refused to grant such a licence,

(ii) has under Article 10(1) or (2) revoked such a licence, or

(iii) has served a notice on that person in pursuance of Article 15C(1) or (2) or 19G requiring him to deliver to the Department a Community or Great Britain licence authorising him to drive a motor vehicle of that or a corresponding class, and

(b) since that earlier time he has not been granted—

(i) a licence under this Part, or

(ii) a Community licence,

authorising him to drive a motor vehicle of that or a corresponding class.

(2) Article 4 shall apply in relation to paragraph (1) of this Article as it applies in relation to Article 3.”.

Payment of fee for confirmation in writing of person’s entitlement to drive

34. In Article 19C(1A) of the Order of 1981 (regulations in respect of licences etc.) after subparagraph (ea) insert—

“(eb) providing for the issue, on payment of such fee, and compliance with such conditions, as may be prescribed, of confirmation in writing of a person’s entitlement to drive.”.

Exchangeable driving licences

35. In Article 19D of the Order of 1981 (interpretation)—

(a) after the definition of “EEA State” in paragraph (1) insert—

““EEA State exchangeable licence” means a licence—

(a) issued in respect of an EEA State other than the United Kingdom by an authority of that or another EEA State; and

(b) issued in exchange for a British external licence or a document which was an exchangeable licence;”;

- (b) for the definition of “exchangeable licence” in paragraph (1) substitute—
- ““exchangeable licence” means an EEA State exchangeable licence or a document authorising a person to drive a motor vehicle (not being a document mentioned in sub-paragraph (b) of the definition of “Community licence”)—
- (a) issued in respect of Gibraltar by an authority of Gibraltar,
 - (b) issued in respect of a country or territory which is designated without restriction by an order under paragraph (2)(a) by an authority of that country or territory, or
 - (c) issued in respect of a country or territory which is designated by a restricted order under paragraph (2)(b) by an authority of that country or territory, being a document which is a licence of a description specified in that order,
- and a licence of a description so specified as to which provision is made as mentioned in paragraph (2B) is only an exchangeable licence to the extent that it authorises its holder to drive vehicles of a class specified in the order;”;
- (c) for paragraph (2) substitute—
- “(2) The Department may by order designate a country or territory which neither is nor forms part of an EEA State for the purposes of the definition of “exchangeable licences” in paragraph (1)—
- (a) as respects all licences authorising the driving of motor vehicles granted under the law of that country or territory, where the Department is satisfied that satisfactory provision is made by that law for the granting of licences to drive motor vehicles;
 - (b) as respects only licences authorising the driving of motor vehicles granted under the law of that country or territory of a description specified in the order, where the Department is satisfied that satisfactory provision is made by that law for the granting of licences of that description.
- (2A) An order under paragraph (2)(b) may specify a description of licence by reference to any feature of the licences concerned (including in particular the circumstances in which they are granted, any conditions to which they are subject or the classes of vehicle which they authorise the holders to drive).”.
- (2B) An order under paragraph (2)(b) may provide that a licence of a specified description shall only be an exchangeable licence in so far as it authorises its holder to drive vehicles of a class specified in the order.”.

Access to driver licensing information

36. After Article 19H of the Order of 1981 insert—

“Access to driver licensing information

19I.—(1) The Department may make any information held by it for the purposes of this Part available to—

- (a) constables,
- (b) police support staff,
- (c) members of a police force in Great Britain,
- (d) persons employed by a police authority under section 15(1) of the Police Act 1996 who are under the direction and control of the chief officer of police of the police force maintained by that authority,

- (d) persons employed by a police authority under section 9(1) of the Police (Scotland) Act 1967 who are under the direction and control of the chief constable of the police force maintained for the authority's area,
 - (e) persons employed by the British Transport Police Authority under section 27(1) of the Railways and Transport Safety Act 2003 who are under the direction and control of the Chief Constable of the British Transport Police,
 - (f) members of the staff of the Serious Organised Crime Agency,
 - (g) such other persons as may be prescribed.
- (2) In respect of any information made available under paragraph (1) the Department may by regulations—
- (a) determine the purposes for which persons may be given access to the information,
 - (b) determine the circumstances in which any of the information to which those persons have been given access may be further disclosed by them.
- (3) In this Article—
- “information” means information held in any form;
 - “a police force in Great Britain” has the same meaning as in section 73(4) of the Police (Northern Ireland) Act 1998 (c. 32).”.

Applying for or obtaining a driving licence, or driving, while disqualified

37. After Article 168 of the Order of 1981 insert—

“Applying for or obtaining a driving licence, or driving, while disqualified

168A.—(1) Subject to paragraphs (3) and (4), a person is guilty of an offence if, while disqualified for holding or obtaining a driving licence, he—

- (a) applies for a licence, or
- (b) obtains a licence, or
- (c) drives a motor vehicle on a road.

(2) A licence obtained by a person who is disqualified is of no effect (or, where the disqualification relates only to vehicles of a particular class, is of no effect in relation to vehicles of that class).

(3) Paragraph (1)(a) and (b) do not apply in relation to disqualification by virtue of Article 17.

(4) Paragraph (1)(c) does not apply in relation to disqualification by virtue of Article 18.

(5) In the application of paragraph (1) to a person whose disqualification is limited to the driving of motor vehicles of a particular class by virtue of—

- (a) Article 18, 74 or 74A, or
- (b) paragraph (9) of Article 41 of the Offenders Order (disqualification until test is passed),

the references to disqualification for holding or obtaining a licence, applying for a licence and driving motor vehicles are references to disqualification for holding or obtaining a licence to drive, applying for a licence for and driving motor vehicles of that class.”.

Driving record

38. After Article 4 of the Offenders Order insert—

“Meaning of “driving record”

4A.—(1) In this Order “driving record”, in relation to a person, means a record in relation to the person maintained by the Department and designed to be endorsed with particulars relating to—

- (a) offences under the Road Traffic Orders;
- (b) an offence under Article 20 of the Roads (Northern Ireland) Order 1993; and
- (c) the offence of manslaughter by the driver of a motor vehicle

committed by the person.

(2) The Department may make arrangements for the following persons to have access, by such means as the Department may determine, to information held on a person’s driving record—

- (a) courts;
- (b) constables;
- (c) fixed penalty clerks;
- (d) examiners appointed under Article 74 of the Order of 1995;
- (e) the person in respect of whom the record is maintained and persons authorised by him; and
- (f) such other persons as may be prescribed by regulations made by the Department subject to negative resolution.”.

Unlicensed and foreign drivers

39.—(1) The Offenders Order is amended as follows.

(2) In Article 49 (endorsement of licences)—

- (a) for the heading substitute “Orders for endorsement”;
- (b) after paragraph (2) insert—

“(2A) Where a person who is not the holder of a licence is convicted of an offence involving obligatory endorsement, paragraph (1) applies as if the reference to the counterpart of any licence held by him were a reference to his driving record.”.

(3) After that Article insert—

“Endorsement of driving record in accordance with order

49A.—(1) Where the court orders the endorsement of a person’s driving record with any particulars or penalty points it must send notice of the order to the Department.

(2) On receiving the notice, the Department must endorse those particulars or penalty points on the person’s driving record.

(3) A notice sent by the court to the Department in pursuance of this Article must be sent in such manner and to such address and contain such particulars as the Department may require.”.

(4) In Article 60 (notices on-the-spot or at a police station), after paragraph (5) insert—

“(5A) Where the offence appears to the constable or vehicle examiner to involve obligatory endorsement, and the person is not the holder of a licence, the constable or vehicle examiner may only give him a fixed penalty notice under paragraph (2) in respect of the offence if the constable or vehicle examiner is satisfied, on accessing information held on his driving record, that he would not be liable to be disqualified under Article 40 if he were convicted of that offence.

(5B) Paragraph (5C) applies where—

- (a) the offence appears to the constable or vehicle examiner to involve obligatory endorsement,
- (b) the person concerned is not the holder of a licence, and
- (c) the constable or vehicle examiner is unable to satisfy himself, by accessing information held on his driving record, that he would not be liable to be disqualified under Article 40 if he were convicted of that offence.

(5C) Where this paragraph applies, the constable or vehicle examiner may give the person a notice stating that if—

- (a) he delivers the notice in accordance with paragraph (5D), and
- (b) the person to whom it is delivered is satisfied, on accessing information held on his driving record, that he would not be liable to be disqualified under Article 40 if he were convicted of the offence,

he will then be given a fixed penalty in respect of the offence.

(5D) Delivery must—

- (a) if the notice is given by a constable, be made in person, within 7 days after the notice is given, to a constable or authorised person at the police station specified in the notice (being a police station chosen by the person concerned), or
- (b) if the notice is given by a vehicle examiner, be made (either by post or in person), within 14 days after the notice is given, to the Department, at the place specified in the notice.

(5E) If a person to whom a notice has been given under paragraph (5C) delivers the notice in accordance with paragraph (5D), and the person to whom it is delivered is satisfied, on accessing information held on his driving record, that he would not be liable to be disqualified under Article 40 if he were convicted of the offence, that person must give him a fixed penalty notice in respect of the offence to which the notice under paragraph (5C) relates.”.

(5) After Article 63 (endorsement of licences without hearings) insert—

“Endorsement of driving records without hearings

63A.—(1) Subject to paragraph (2), where a person who is not the holder of a licence has been given a fixed penalty notice under Article 60 in respect of an offence involving obligatory endorsement, his driving record may be endorsed in accordance with this Article without any order of a court.

(2) A person’s driving record may not be endorsed under this Article if at the end of the suspended enforcement period—

- (a) he has given notice, in the manner specified in the fixed penalty notice, requesting a hearing in respect of the offence to which the fixed penalty notice relates, and
- (b) the fixed penalty has not been paid in accordance with this Part.

(3) If payment of the fixed penalty is made before the end of the suspended enforcement period and the person to whom the payment is made is the fixed penalty clerk, the fixed penalty clerk must send to the Department notice of the relevant particulars which are to be endorsed on the person’s driving record.

(4) Where any sum determined by reference to the fixed penalty is registered under Article 76 for enforcement against the person as a fine in a case where the fixed penalty is required to be paid to the fixed penalty clerk, the fixed penalty clerk must, on the registration of that

sum, send to the Department notice of the relevant particulars which are to be endorsed on the person's driving record.

- (5) The Department must endorse the relevant particulars on the person's driving record if—
 - (a) it receives notice of them under paragraph (3) or (4),
 - (b) the fixed penalty is paid to it before the end of the suspended enforcement period, or
 - (c) in a case where the fixed penalty is required to be paid to the Department, any sum determined by reference to the fixed penalty is registered under Article 76 for enforcement against the person as a fine.
- (6) References in this Article to the relevant particulars are to—
 - (a) particulars of the offence, including the date when it was committed, and
 - (b) the number of penalty points to be attributed to the offence.”.

(6) Schedule 4 (which contains further amendments in respect of the endorsement of driving records in the case of unlicensed and certain foreign drivers) shall have effect.

All drivers

40.—(1) The Offenders Order (as amended by Article 39 and Schedule 4) is amended as follows.

- (2) In Article 49 (orders for endorsement)—
 - (a) in paragraph (1), for “the counterpart of any licence held by him” substitute “his driving record”; and
 - (b) omit paragraph (2A).
- (3) In Article 60 (notices on-the-spot etc.)—
 - (a) for paragraphs (3) to (5E) substitute—
 - “(3) Where the offence appears to the constable or vehicle examiner to involve obligatory endorsement, the constable or vehicle examiner may only give him a fixed penalty notice under paragraph (2) in respect of the offence if—
 - (a) the constable or vehicle examiner is satisfied, on accessing information held on his driving record, that he would not be liable to be disqualified under Article 40 if he were convicted of that offence, and
 - (b) in the case of a person who is the holder of a licence, he produced it for inspection by the constable or vehicle examiner and surrenders it to him to be retained and dealt with in accordance with this Part.
 - (4) Where the offence appears to the constable or vehicle examiner to involve obligatory endorsement, paragraph (5) applies if—
 - (a) the constable or vehicle examiner is unable to satisfy himself, by accessing the information held on his driving record, that he would not be liable to be disqualified under Article 40 if he were convicted of that offence, or
 - (b) in the case of a person who is the holder of a licence, he does not produce it for inspection by the constable or vehicle examiner.
 - (5) Where this paragraph applies, the constable or vehicle examiner may give the person a notice stating that if—
 - (a) he delivers the notice and (if he is the holder of a licence) his licence in accordance with paragraph (5A), and
 - (b) the requirements of paragraph (5B) are met,he will then be given a fixed penalty notice in respect of the offence.

(5A) Delivery must—

- (a) if the notice is given by a constable, be made in person, within 7 days after the notice is given, to a constable or authorised person at the police station specified in the notice (being a police station chosen by the person concerned), or
- (b) if the notice is given by a vehicle examiner, be made (either by post or in person), within 14 days after the notice is given, to the Department at the place specified in the notice.

(5B) If a person to whom a notice has been given under paragraph (5) delivers the notice and (if he is the holder of a licence) his licence in accordance with paragraph (5A), and the following requirements are met, that is—

- (a) the person to whom the notice is delivered is satisfied, on accessing information held on his driving record, that he would not be liable to be disqualified under Article 40 if he were convicted of the offence, and
- (b) if he is the holder of a licence, it is delivered to be retained and dealt with in accordance with this Part,

the person to whom the notice is delivered must give him a fixed penalty notice in respect of the offence to which the notice under paragraph (5) relates.”;

- (b) in paragraph (6), for “(4) or (5C)” substitute “(5)”;
- (c) in paragraph (7), omit “and a counterpart of a licence”.

(4) Omit Article 63 (endorsement of counterparts without hearings).

(5) In Article 63A (endorsement of driving records without hearings)—

- (a) in paragraph (1), omit “who is not the holder of a licence”;
- (b) in paragraph (3), at the end insert “and return to that person any licence surrendered to him under Article 60”
- (c) in paragraph (4), after “record” insert “and return to that person any licence surrendered by him under Article 60”.

(6) Schedule 5 (which contains further amendments about the endorsement of driving records in the case of all drivers) shall have effect.