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Road Traffic Act 1988

1988 CHAPTER 52

PART III

LICENSING OF DRIVERS OF VEHICLES

Miscellaneous

104 Conduct of proceedings in certain courts by or against the Secretary of State.

- (1) Any proceedings by or against the Secretary of State in a magistrates' court or before the registrar of a county court under this Part of this Act or Part II of the Road Traffic Offenders Act 1988 may be conducted on behalf of the Secretary of State by a person authorised by him for the purposes of this subsection.
- (2) Any proceedings in any court in Scotland, other than the High Court of Justiciary or the Court of Session, against the Secretary of State under this Part of this Act or Part II of the ^{M1}Road Traffic Offenders Act 1988 may be conducted on behalf of the Secretary of State by any person authorised by him for the purposes of this subsection.

Marginal Citations

M1 1988 c. 53.

105 Regulations.

- (1) The Secretary of State may make regulations for any purpose for which regulations may be made under the provisions of this Part of this Act and the relevant provisions of the Road Traffic Offenders Act 1988 and for prescribing anything which may be prescribed under any of those provisions, and otherwise for the purpose of carrying any of those provisions into effect.
- (2) In particular, but without prejudice to the generality of subsection (1) above, the regulations may make provision with respect to—

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- (a) licences [^{F1}and counterparts of licences],
 - (b) making any particulars with respect to any persons who are disqualified or whose licences are suspended or [^{F2}whose counterparts of licences are]endorsed available for use by the police,
 - (c) preventing a person holding more than one licence,
 - (d) facilitating identification of holders of licences,
 - (e) providing for the issue of [^{F3}new licences and counterparts of licences in the place of licences or counterparts of licences]lost or defaced on payment of such fee as may be prescribed,
- [^{F4}(ee) the correspondence for any purpose of this Part of this Act of one class of motor vehicle with another class of motor vehicle or of one test of competence to drive with another (whatever the law under which the classification is made or the test conducted),]
- (f) the effect of a change in the classification of motor vehicles for the purposes of this Part of this Act on licences then in force or issued or on the right to or the subsequent granting of licences, and
 - (g) enabling a person—
 - (i) whose entitlement to the grant of a licence to drive a class of motor vehicle is preserved by regulations made by virtue of paragraph (f) above, and
 - (ii) who satisfies such conditions as may be prescribed,
 to drive (and be employed in driving) that class of motor vehicle while he applies for the licence to be granted to him,
- and different regulations may be made as respects different classes of vehicles or as respects the same class of vehicles in different circumstances.
- (3) The regulations may—
- (a) make different provision for different circumstances,
 - (b) provide for exemptions from any provision of the regulations, and
 - (c) contain such incidental and supplemental provisions as the Secretary of State considers expedient for the purposes of the regulations,
- and nothing in the other provisions of this Part of this Act shall be construed as prejudicing the generality of the preceding provisions of this subsection.
- (4) Any fee prescribed under this Part of this Act shall be of an amount approved by the Treasury, and different fees may be prescribed for different circumstances.
- (5) In subsection (1) above “the relevant provisions of the ^{M2}Road Traffic Offenders Act 1988” means the following provisions of that Act: sections 2, 7, 8, 23 to 26, 27, 31 and 34 to 48.

Textual Amendments

- F1** Words inserted by S.I. 1990/144, regs. 2(1), 3, **Sch. 1 para. 6(a)**
- F2** Words inserted by S.I. 1990/144, regs. 2(1), 3, **Sch. 1 para. 6(b)**
- F3** Words substituted by S.I. 1990/144, regs. 2(1), 3, **Sch. 1 para. 6(c)**
- F4** S. 105(2)(ee) inserted by Road Traffic (Driver Licensing and Information Systems) Act 1989 (c. 22, SIF 107:1), s. 7, **Sch. 3 para. 14**

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Marginal Citations

M2 1988 c. 53.

106 Destination of fees for licences, etc.

- (1) All fees received by the Secretary of State for licences under this Part of this Act shall be paid into the Consolidated Fund.
- (2) Fees in respect of tests of competence to drive payable by virtue of regulations made by virtue of section 89(4) of this Act shall be paid to such person as may be prescribed by the regulations, and any such fees received by a person so prescribed (other than any as to which the regulations provide that they are to be paid to the person conducting the test and retained by him as remuneration) shall be paid into the Consolidated Fund.

107 Service of notices.

A notice authorised to be served on any person by section 92, 93 or 99(3) of this Act may be served on him by delivering it to him or by leaving it at his proper address or by sending it to him by post; and for the purposes of this section and section 7 of the ^{M3}Interpretation Act 1978 in its application to this section the proper address of any person shall be his latest address as known to the person serving the notice.

Marginal Citations

M3 1978 c. 30.

108 Interpretation.

- (1) In this Part of this Act—

“agricultural tractor” means a tractor used primarily for work on land in connection with agriculture,

“articulated goods vehicle” means a motor vehicle which is so constructed that a trailer designed to carry goods may by partial superimposition be attached to it in such manner as to cause a substantial part of the weight of the trailer to be borne by the motor vehicle, and “articulated goods vehicle combination” means an articulated goods vehicle with a trailer so attached,

[^{F5}“British external licence” and “British Forces licence” have the meanings given by section 88(8) of this Act,]

“Community licence” means a document issued in respect of a member State other than the United Kingdom by an authority of that or another member State (including the United Kingdom) authorising the holder to drive a motor vehicle, not being—

- (a) a document containing a statement to the effect that that or a previous document was issued in exchange for a document issued in respect of a State other than a member State, or
- (b) a document in any of the forms for an international driving permit annexed to the Paris Convention on Motor Traffic of 1926, the Geneva Convention on Road Traffic of 1949 or the Vienna Convention on Road Traffic of 1968,

“disability” has the meaning given by section 92 of this Act,

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“disqualified” means disqualified for holding or obtaining a licence, and “disqualification” is to be interpreted accordingly,

“exchangeable licence” means a Community licence or a document which would be a Community licence if—

- (a) Gibraltar, and
- (b) each country or territory within this paragraph by virtue of an order under subsection (2) below,

were or formed part of a member State other than the United Kingdom,

“licence” means a licence to drive a motor vehicle granted under this Part of this Act [^{F6}and “counterpart”, in relation to a licence, means a document in such form as the Secretary of State may determine, issued with the licence, containing such information as he determines and designed for the endorsement of particulars relating to the licence],

“maximum gross weight”, in relation to a motor vehicle or trailer, means the weight of the vehicle laden with the heaviest load which it is constructed or adapted to carry,

“maximum train weight”, in relation to an articulated goods vehicle combination, means the weight of the combination laden with the heaviest load which it is constructed or adapted to carry,

“medium-sized goods vehicle” means a motor vehicle which is constructed or adapted to carry or to haul goods and is not adapted to carry more than nine persons inclusive of the driver and the permissible maximum weight of which exceeds 3.5 but not 7.5 tonnes,

[^{F7}“Northern Ireland driving licence” or “Northern Ireland licence” means a licence to drive a motor vehicle granted under the law of Northern Ireland,

“passenger-carrying vehicle” has the meaning given by section 121(1) of this Act,]

“permissible maximum weight”, in relation to a goods vehicle (of whatever description), means—

- (a) in the case of a motor vehicle which neither is an articulated goods vehicle nor is drawing a trailer, the relevant maximum weight of the vehicle,
- (b) in the case of an articulated goods vehicle—
 - (i) when drawing only a semi-trailer, the relevant maximum train weight of the articulated goods vehicle combination,
 - (ii) when drawing a trailer as well as a semi-trailer, the aggregate of the relevant maximum train weight of the articulated goods vehicle combination and the relevant maximum weight of the trailer,
 - (iii) when drawing a trailer but not a semi-trailer, the aggregate of the relevant maximum weight of the articulated goods vehicle and the relevant maximum weight of the trailer,
 - (iv) when drawing neither a semi-trailer nor a trailer, the relevant maximum weight of the vehicle,
- (c) in the case of a motor vehicle (not being an articulated goods vehicle) which is drawing a trailer, the aggregate of the relevant maximum weight of the motor vehicle and the relevant maximum weight of the trailer,

“prescribed” means prescribed by regulations,

“prospective disability” has the meaning given by section 92 of this Act,

“provisional licence” means a licence granted by virtue of section 97(2) of this Act,

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“regulations” means regulations made under section 105 of this Act,

“relevant disability” has the meaning given by section 92 of this Act,

[^{F8}“relevant external law” has the meaning given by section 88(8) of this Act,]

“relevant maximum weight”, in relation to a motor vehicle or trailer, means—

- (a) in the case of a vehicle to which regulations under section 49 of this Act apply which is required by regulations under section 41 of this Act to have a maximum gross weight for the vehicle marked on a plate issued by the Secretary of State under regulations under section 41, the maximum gross weight so marked on the vehicle,
- (b) in the case of a vehicle which is required by regulations under section 41 of this Act to have a maximum gross weight for the vehicle marked on the vehicle and does not also have a maximum gross weight marked on it as mentioned in paragraph (a) above, the maximum gross weight marked on the vehicle,
- (c) in the case of a vehicle on which a maximum gross weight is marked by the same means as would be required by regulations under section 41 of this Act if those regulations applied to the vehicle, the maximum gross weight so marked on the vehicle,
- (d) in the case of a vehicle on which a maximum gross weight is not marked as mentioned in paragraph (a), (b) or (c) above, the notional maximum gross weight of the vehicle, that is to say, such weight as is produced by multiplying the unladen weight of the vehicle by the number prescribed by the Secretary of State for the class of vehicle into which that vehicle falls,

“relevant maximum train weight”, in relation to an articulated goods vehicle combination, means—

- (a) in the case of an articulated goods vehicle to which regulations under section 49 of this Act apply which is required by regulations under section 41 of this Act to have a maximum train weight for the combination marked on a plate issued by the Secretary of State under regulations under section 41, the maximum train weight so marked on the motor vehicle,
- (b) in the case of an articulated goods vehicle which is required by regulations under section 41 of this Act to have a maximum train weight for the combination marked on the vehicle and does not also have a maximum train weight marked on it as mentioned in paragraph (a) above, the maximum train weight marked on the motor vehicle,
- (c) in the case of an articulated goods vehicle on which a maximum train weight is marked by the same means as would be required by regulations under section 41 of this Act if those regulations applied to the vehicle, the maximum train weight so marked on the motor vehicle,
- (d) in the case of an articulated goods vehicle on which a maximum train weight is not marked as mentioned in paragraph (a), (b) or (c) above, the notional maximum gross weight of the combination, that is to say, such weight as is produced by multiplying the sum of the unladen weights of the motor vehicle and the semi-trailer by the number prescribed by the Secretary of State for the class of articulated goods vehicle combination into which that combination falls,

“semi-trailer”, in relation to an articulated goods vehicle, means a trailer attached to it in the manner described in the definition of articulated goods vehicle,

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“small goods vehicle” means a motor vehicle (other than a motor cycle or invalid carriage) which is constructed or adapted to carry or to haul goods and is not adapted to carry more than nine persons inclusive of the driver and the permissible maximum weight of which does not exceed 3.5 tonnes,

“small passenger vehicle” means a motor vehicle (other than a motor cycle or invalid carriage) which is constructed solely to carry passengers and their effects and is adapted to carry not more than nine persons inclusive of the driver, and

“test of competence to drive” means such a test conducted under section 89 of this Act.

[^{F9}“approved training course for motor cyclists” and, in relation to such a course, “prescribed certificate of completion” mean respectively any course of training approved under, and the certificate of completion prescribed in, regulations under section 97(3A) of this Act.]

- (2) If the Secretary of State is satisfied that satisfactory provision for the granting of licences to drive motor vehicles is made by the law of a country or territory which neither is nor forms part of a member State, he may by order made by statutory instrument designate that country or territory as a country or territory within paragraph (b) of the definition of exchangeable licence in subsection (1) above.
- (3) Before making any order under subsection (2) above, the Secretary of State shall consult with such representative organisations as he thinks fit.

Textual Amendments

- F5** Definition inserted by [Road Traffic \(Driver Licensing and Information Systems\) Act 1989 \(c. 22, SIF 107:1\)](#), s. 7, [Sch. 3 para. 15\(a\)](#)
- F6** Words inserted by [S.I. 1990/144](#), regs. 2(1), 3, [Sch. 1 para. 7](#)
- F7** Definition inserted by [Road Traffic \(Driver Licensing and Information Systems\) Act 1989 \(c. 22, SIF 107:1\)](#), s. 7, [Sch. 3 para. 15\(e\)](#) (in force 1.6.1990 as to definition of “Northern Ireland driving licence” and “Northern Ireland licence” and 1.4.1991 as to residue)
- F8** Definition inserted by [Road Traffic \(Driver Licensing and Information Systems\) Act 1989 \(c. 22, SIF 107:1\)](#), s. 7, [Sch. 3 para. 15\(f\)](#)
- F9** Definition inserted by [Road Traffic \(Driver Licensing and Information Systems\) Act 1989 \(c. 22, SIF 107:1\)](#), s. 7, [Sch. 3 para. 15\(g\)](#)

109 Provisions as to Northern Ireland drivers’ licences.

- (1) The holder of a [^{F10}Northern Ireland driving licence] may drive, and a person may cause or permit the holder of such a licence to drive, in Great Britain, a motor vehicle of any class which he is authorised by that licence to drive, and which he is not disqualified from driving under this Part [^{F11}or Part IV] of this Act, notwithstanding that he is not the holder of a licence under this Part of this Act.
- (2) Any driver holding a [^{F12}Northern Ireland driving licence] shall be under the like obligation to produce such a licence [^{F13}and its counterpart as if they had respectively been a licence granted under this Part of this Act and the counterpart to such a licence], and the provisions—
 - (a) of this Act, and
 - (b) of the ^{M4}Road Traffic Offenders Act 1988, being the provisions connected with the licensing of drivers within the meaning of that Act,

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as to the production of licences [^{F14}and counterparts of licences] granted under this Part of this Act shall apply accordingly.

- (3) The holder of any such licence who by an order of the court is disqualified for holding or obtaining a licence under this Part of this Act must produce the licence so held by him [^{F15}and its counterpart] to the court within such time as the court may determine, and the court must, on production of the licence [^{F15}and its counterpart], forward [^{F16}them] to the Secretary of State.
- (4) If the holder fails to produce the licence [^{F17}and its counterpart] within that time, he is guilty of an offence.
- (5) If the holder of any such licence is convicted of an offence and the court orders particulars of the conviction to be endorsed in accordance with section 44 of the Road Traffic Offenders Act 1988, the court shall send those particulars to the Secretary of State.

Textual Amendments

- F10** Words substituted by Road Traffic (Driver Licensing and Information Systems) Act 1989 (c. 22, SIF 107:1), s. 7, **Sch. 3 para. 16(a)(i)**
- F11** Words inserted by Road Traffic (Driver Licensing and Information Systems) Act 1989 (c. 22, SIF 107:1), s. 7, **Sch. 3 para. 16(a)(ii)**
- F12** Words substituted by Road Traffic (Driver Licensing and Information Systems) Act 1989 (c.22, SIF 107:1), s. 7, **Sch. 3 para. 16(b)**
- F13** Words substituted by S.I. 1990/144, regs. 2(1), 3, **Sch. 1 para. 8(a)(i)**
- F14** Words inserted by S.I. 1990/144, regs. 2(1), 3, **Sch. 1 para. 8(a)(ii)**
- F15** Words inserted by S.I. 1990/144, regs. 2(1), 3, **Sch. 1 para. 8(b)(i)(ii)(iii)**
- F16** Words substituted by S.I. 1990/144, regs. 2(1), 3, **Sch. 1 para. 8(b)(i)(ii)(iii)**
- F17** Words inserted by S.I. 1990/144, regs. 2(1), 3, **Sch. 1 para. 8(c)**

Modifications etc. (not altering text)

- C1** S. 109(3) excluded by Road Traffic Offenders Act 1988 (c. 53, SIF 107:1), s. 26(5)

Marginal Citations

- M4** 1988 c. 53.

VALID FROM 11/10/2004

^{F18}109A Counterparts issued to Northern Ireland licence holders

- (1) The Secretary of State may issue to any Northern Ireland licence holder who—
 - (a) has delivered his Northern Ireland licence to the Secretary of State, and
 - (b) has provided him with the information specified in, or required under, subsection (3) below (whether or not in pursuance of this section),a document (referred to in this Part of this Act in relation to a Northern Ireland licence as a “counterpart”).
- (2) The counterpart must—
 - (a) be in such form, and
 - (b) contain such information,

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designed for the endorsement of particulars relating to the Northern Ireland licence as the Secretary of State may determine.

- (3) The information referred to in subsection (1) above is—
- (a) the name and address (whether in Great Britain or Northern Ireland) of the Northern Ireland licence holder;
 - (b) his date of birth;
 - (c) the classes of vehicle which he is authorised by his Northern Ireland licence to drive;
 - (d) the period of validity of the licence;
 - (e) whether it was granted in exchange for a licence issued by a state other than an EEA State; and
 - (f) such other information as the Secretary of State may require for the purposes of the proper exercise of any of his functions under this Part or Part 4 of this Act.
- (4) The Secretary of State—
- (a) may endorse a Northern Ireland licence delivered to him (whether or not in pursuance of this section) in such manner as he may determine—
 - (i) with any part of the information specified in, or required under, subsection (3) above; or
 - (ii) with information providing a means of ascertaining that information or any part of it; and
 - (b) must return the Northern Ireland licence to the holder.
- (5) Subsections (6) to (9), (11) (with the omission of paragraph (a)) and (12) of section 99B of this Act apply for the purposes of this section as if the references to a Community licence were references to a Northern Ireland licence.]

Textual Amendments

F18 S. 109A inserted (11.10.2004) by [Crime \(International Co-operation\) Act 2003 \(c. 32\), ss. 77\(1\), 94;](#)
[S.I. 2004/2624, art. 2\(2\)\(a\)](#)

VALID FROM 11/10/2004

[^{F19}109B] Revocation of authorisation conferred by Northern Ireland licence because of disability or prospective disability

- (1) If the Secretary of State is at any time satisfied on inquiry—
- (a) that a Northern Ireland licence holder is suffering from a relevant disability, and
 - (b) that he would be required by virtue of section 92(3) of this Act to refuse an application made by the holder at that time for a licence authorising him to drive a vehicle of the class in respect of which his Northern Ireland licence was issued or a class corresponding to that class,
- he may serve notice in writing requiring the licence holder to deliver immediately to the Secretary of State his Northern Ireland licence together with its Northern Ireland

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counterpart and its counterpart (if any) issued to him under this Part of this Act (“the relevant counterparts”).

- (2) If the Secretary of State is satisfied on inquiry that a Northern Ireland licence holder is suffering from a prospective disability, he may—
- (a) serve notice in writing on the Northern Ireland licence holder requiring him to deliver immediately to the Secretary of State his Northern Ireland licence together with the relevant counterparts, and
 - (b) on receipt of the Northern Ireland licence and those counterparts and of an application made for the purposes of this subsection, grant to the Northern Ireland licence holder, free of charge, a licence for a period determined by the Secretary of State under section 99(1)(b) of this Act.
- (3) The Secretary of State may require a person to provide—
- (a) evidence of his name, address, sex and date and place of birth, and
 - (b) a photograph which is a current likeness of him,
- before granting a licence to him on an application for the purposes of subsection (2) above.
- (4) A person who—
- (a) is required under, or by virtue of, this section to deliver to the Secretary of State his Northern Ireland licence and the relevant counterparts, but
 - (b) without reasonable excuse, fails to do so,
- is guilty of an offence.
- (5) Where a Northern Ireland licence holder to whom a counterpart is issued under section 109A of this Act—
- (a) is required under, or by virtue of, this section to deliver his Northern Ireland licence and that counterpart to the Secretary of State, and
 - (b) is not in possession of them in consequence of the fact that he has surrendered them to a constable or authorised person (within the meaning of Part 3 of the Road Traffic Offenders Act 1988) on receiving a fixed penalty notice given to him under section 54 of that Act,
- he does not fail to comply with any such requirement if he delivers them to the Secretary of State immediately on their return.
- (6) Where a Northern Ireland licence holder is served with a notice in pursuance of this section, he shall cease to be authorised by virtue of section 109(1) of this Act to drive in Great Britain a motor vehicle of any class from such date as may be specified in the notice, not being earlier than the date of service of the notice.
- (7) Where a Northern Ireland licence is delivered to the Secretary of State in pursuance of this section, he must—
- (a) send the licence and its Northern Ireland counterpart to the licensing authority in Northern Ireland, and
 - (b) explain to them his reasons for so doing.]

Textual Amendments

F19 Ss. 109B, 109C inserted (11.10.2004) by [Crime \(International Co-operation\) Act 2003 \(c. 32\)](#), ss. [79\(2\)](#), [94](#); S.I. 2004/2624, [art. 2\(2\)\(a\)](#)

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VALID FROM 11/10/2004

[^{F20}109C Information relating to disabilities etc

Section 94 of this Act shall apply to a Northern Ireland licence holder who is normally resident in Great Britain as if—

- (a) in subsection (1), for the words from the beginning to “aware” there were substituted “ If a Northern Ireland licence holder who is authorised by virtue of section 109(1) of this Act to drive in Great Britain a motor vehicle of any class, is aware immediately before the relevant date, or becomes aware on or after that date ”,
- (b) after that subsection there were inserted—
 - “(1A) For the purposes of subsection (1) “relevant date” means—
 - (a) in the case where the licence holder first became normally resident in Great Britain on or before the date on which section 79 of the Crime (International Co-operation) Act 2003 comes into force, that date; and
 - (b) in any other case, the date on which he first became so resident.”,
- (c) for subsection (3A) there were substituted—
 - “(3A) A person who—
 - (a) is authorised by virtue of section 109(1) of this Act to drive in Great Britain a motor vehicle of any class, and
 - (b) drives on a road a motor vehicle of that class,
 is guilty of an offence if at any earlier time while he was so authorised he was required by subsection (1) above to notify the Secretary of State but has failed without reasonable excuse to do so.”,
- (d) in subsection (4), the words “an applicant for, or” (in both places) were omitted,
- (e) in subsection (5), the words “applicant or” and the words from the beginning of paragraph (c) to “provisional licence” were omitted,
- (f) in subsection (6)(b), the words “applicant or” (in both places) were omitted,
- (g) in subsection (7), the words “applicant or” were omitted, and
- (h) in subsection (8)—
 - (i) for “93” there were substituted “ 109B ”, and
 - (ii) the words “applicant or” (in both places) were omitted.]

Textual Amendments

F20 Ss. 109B, 109C inserted (11.10.2004) by [Crime \(International Co-operation\) Act 2003 \(c. 32\)](#), [ss. 79\(2\), 94](#); [S.I. 2004/2624](#), [art. 2\(2\)\(a\)](#)

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