



# Road Traffic Act 1988

## 1988 CHAPTER 52

### PART V

#### DRIVING INSTRUCTION

##### *Instructors to be registered or licensed*

#### **123 Driving instruction for payment to be given only by registered or licensed persons.**

- (1) No paid instruction in the driving of a motor car shall be given unless—
  - (a) the name of the person giving the instruction is in the register of approved instructors established in pursuance of section 23 of the <sup>M1</sup>Road Traffic Act 1962 (in this Part of this Act referred to as “the register”), or
  - (b) the person giving the instruction is the holder of a current licence granted under this Part of this Act authorising him to give such instruction.
- (2) No paid instruction in the driving of a motor car shall be given unless there is fixed to and exhibited on that motor car in such manner as may be prescribed by regulations either—
  - (a) a certificate in such form as may be so prescribed that the name of the person giving the instruction is in the register, or
  - (b) a current licence granted under this Part of this Act authorising the person giving the instruction to give such instruction.
- (3) For the purposes of subsections (1) and (2) above, instruction is paid instruction if payment of money or money’s worth is, or is to be, made by or in respect of the person to whom the instruction is given for the giving of the instruction and for the purposes of this subsection instruction which is given—
  - (a) free of charge to a person who is not the holder of a current licence to drive a motor vehicle granted under Part III of this Act (other than a provisional licence),

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- (b) by, or in pursuance of arrangements made by, a person carrying on business in the supply of motor cars, and
- (c) in connection with the supply of a motor car in the course of that business,
- shall be deemed to be given for payment of money by the person to whom the instruction is given.
- (4) Where instruction is given in contravention of subsection (1) above—
- (a) the person by whom it is given, and
- (b) if that person is employed by another to give that instruction, that other, as well as that person,
- is guilty of an offence.
- (5) In proceedings against a person for an offence under subsection (4) above it shall be a defence for him to prove that he did not know, and had no reasonable cause to believe, that his name or, as the case may be, that of the person employed by him, was not in the register at the material time.
- (6) If instruction is given in contravention of subsection (2) above, the person by whom it is given is guilty of an offence.
- (7) Any reference in this Part of this Act to a current licence [<sup>F1</sup>or certificate] is a reference to a licence [<sup>F1</sup>or certificate] which has not expired and has not been cancelled, revoked or suspended.
- [<sup>F2</sup>(8) In this Part of this Act—
- “paid instruction”, in relation to instruction in the driving of a motor car, shall be construed in accordance with subsection (3) above; and
- “provisional licence” has the same meaning as in Part III of this Act.]

#### Textual Amendments

**F1** Words in s. 123(7) inserted (9.9.1996) by 1993 c. 31, s. 6, **Sch. para. 2(2)**; S.I. 1996/1980, **art. 2**

**F2** S. 123(8) substituted (9.9.1996) by 1993 c. 31, s. 6, **Sch. para. 2(3)**; S.I. 1996/1980, **art. 2**

#### Modifications etc. (not altering text)

**C1** S. 123 excluded (23.6.1999) by S.I. 1999/1736, **art. 8(1)(b)(2)(b)**

#### Marginal Citations

**M1** 1962 c. 59.

## 124 Exemption of police instructors from prohibition imposed by section 123.

- (1) Section 123(1) and (2) of this Act does not apply to the giving of instruction by a police instructor in pursuance of arrangements made by a chief officer of police or, under the authority of a chief officer of police, in pursuance of arrangements made by a local authority.
- (2) In this section—
- [<sup>F3</sup>“chief officer of police” includes the Director General of the National Criminal Intelligence Service and the Director General of the National Crime Squad;

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<sup>F4</sup>“police authority” includes the Service Authority for the National Criminal Intelligence Service and the Service Authority for the National Crime Squad;

<sup>F5</sup>“police force” includes the National Criminal Intelligence Service and the National Crime Squad;]

“police instructor” means a person who is—

- (a) a member of a police force whose duties consist of or include, or have consisted of or included, the giving of instruction in the driving of motor cars to persons being members of a police force, or
- (b) a civilian employed by a police authority for the purpose of giving such instruction to such persons, and

“local authority” means—

- (a) in relation to England and Wales, the council of a county, metropolitan district, or London borough or the Common Council of the City of London,
- (b) in relation to Scotland, a regional or islands council.

<sup>F6</sup>(3) . . . . .

#### Textual Amendments

- F3** Definition of “chief officer of police” in s. 124(2) inserted (1.4.1998) by 1997 c. 50, s. 134(1), **Sch. 9 para. 58**; S.I. 1998/354, **art. 2**
- F4** Definition of “police authority” in s. 124(2) inserted (1.4.1998) by S.I. 1997 c. 50, s. 134(1), **Sch. 9 para. 58**; S.I.1998/354, **art. 2**
- F5** Definition of “police force” in s. 124(2) inserted (1.4.1998) by S.I. 1997 c. 50, s. 134(10), Sch. 9 para. 58; S.I. 1998/354, **art. 2**
- F6** S. 124(3) repealed (3.7.2000) by 1999 c. 29, s. 325, 423, Sch. 27 para. 60, **Sch. 34 Pt. VII** (with Sch. 12 para. 9(1)); S.I. 2000/1648, **art. 2, Sch.**

#### Modifications etc. (not altering text)

- C2** S. 124 excluded (23.6.1999) by S.I. 1999/1736, **art. 8(1)(b)(2)(b)**

### Registration

#### 125 The register of approved instructors.

- (1) The compilation and maintenance of the register shall continue by virtue of this Act.
- (2) An application for the entry of a person’s name in the register must be made, in manner determined by the Secretary of State, accompanied by particulars so determined, to the officer of the Secretary of State (in this Part of this Act referred to as “the Registrar”) by whom the register is, on behalf of the Secretary of State, compiled and maintained.
- (3) Where a person duly applies for the entry of his name in the register, the Registrar must, on payment of such fee, if any, as may be prescribed by regulations, enter his name in the register if he satisfies the Registrar that the following conditions are fulfilled in his case—
  - (a) he has passed such examination of ability to give instruction in the driving of motor cars (consisting of a written examination, a practical test of ability and

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- fitness to drive and a practical test of ability and fitness to instruct) as may be so prescribed,
- [<sup>F7</sup>(b) he is the holder of–
- (i) a current licence to drive a motor car (not being a provisional licence) granted under Part III of this Act,
  - (ii) a current licence to drive a motor car (not being a licence corresponding to a provisional licence) granted under the law in force in Northern Ireland, or
  - (iii) a Community licence by which he is authorised to drive a motor car in Great Britain and a counterpart of that licence.]
- (c) during the period of six years ending with the day on which the application is made, the periods (if any) for which he did not hold one or more of the following licences, that is—
- (i) a current licence of one of the kinds mentioned in paragraph (b) above, and
  - [<sup>F8</sup>(ii) a current foreign licence, that is to say a document issued under the law of a country or territory other than an EEA State (within the meaning of Part III of this Act <sup>F9</sup>), authorising the holder to drive a motor car in that country or territory.]
- did not amount in aggregate to more than two years,
- (d) he has not, during any part of the period of four years ending with the day on which the application is made, been disqualified under section 34 or 36 of the <sup>M2</sup>Road Traffic Offenders Act 1988 for holding or obtaining a licence to drive a motor vehicle granted under Part III of this Act, and
- (e) apart from fulfilment of the preceding conditions, he is a fit and proper person to have his name entered in the register.
- (4) At any time when a person who held a current licence of one of the following kinds, that is—
- (a) a licence to drive a motor car granted under Part III of this Act, being a provisional licence, and
  - (b) a licence to drive a motor car (being a licence corresponding to a provisional licence) granted under the law in force in Northern Ireland,
- had passed the test of competence to drive a motor car prescribed by virtue of section 89(3) of this Act or the corresponding law in force in Northern Ireland, he shall be regarded for the purposes of paragraph (c) of subsection (3) above as having held a current licence of one of the kinds mentioned in paragraph (b) of that subsection.
- (5) The entry of a person's name in the register shall be subject to the condition that, so long as his name is in the register, he will, if at any time required to do so by the Registrar, [<sup>F10</sup>submit himself for such test of continued ability and fitness to give instruction in the driving of motor cars (which may consist of practical and other means of assessment) as may be prescribed by regulations.]
- (6) Regulations may provide that persons of such class as may be specified in the regulations shall be exempt from the condition mentioned in subsection (3)(a) above as regards such part of the examination mentioned in that paragraph as may be so specified.
- (7) If the Secretary of State is satisfied that satisfactory provision is made by the law of Northern Ireland for the establishment of a register containing the names of persons

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qualified under that law to give instruction in the driving of motor cars, a person who satisfies the Registrar—

- (a) that his name is in the register established under that law, and
- (b) that he is resident in Great Britain,

shall be exempt from the condition mentioned in subsection (3)(a) above.

- (8) The Registrar must, on making a decision on an application under subsection (2) above, give notice in writing of the decision to the applicant which, in the case of a decision to refuse the application, must state the grounds for the refusal.

[<sup>F11</sup>(9) Subsections (2) to (8) above do not apply in relation to an application by a person to have his name entered in the register as that of a disabled instructor and to his entry in the register as such.]

[<sup>F12</sup>(10) In this Part of this Act, “Community licence” and “counterpart”, in relation to a Community licence, have the same meanings as in Part III of this Act.]

#### Textual Amendments

- F7** S. 125(3)(b) substituted (1.4.1999) by [S.I. 1999/357, reg. 2\(2\)\(a\)](#)
- F8** S. 125(3)(c)(ii) substituted (1.4.1999) by [S.I. 1999/357, reg. 2\(2\)\(b\)](#)
- F9** See section 108(1), the relevant amendments being by the [Driving Licences \(Community Driving Licence\) Regulations 1996 \(S.I. 1996/1974\)](#).
- F10** Words in s. 125(5) substituted (1.4.2002) by [2000 c. 38, s. 260, Sch. 29 para. 7](#); [S.I. 2002/658, art. 2\(2\), Sch. Pt. 2](#)
- F11** S. 125(9) substituted (9.9.1996) by [1993 c. 31, ss. 6, Sch. para. 3](#); [S.I. 1996/1980, art. 2](#)
- F12** S. 125(10) inserted (1.4.1999) by [S.I. 1999/357, reg. 2\(2\)\(c\)](#)

#### Modifications etc. (not altering text)

- C3** S. 125 excluded (23.6.1999) by [S.I. 1999/1736, art. 8\(1\)\(b\)\(2\)\(b\)](#)
- C4** S. 125 modified (10.8.2005) by [The Motor Cars \(Driving Instruction\) Regulations 2005 \(S.I. 2005/1902\), reg. 9](#)
- C5** S. 125(3)(d) extended by [Road Traffic \(Consequential Provisions\) Act 1988 \(c. 54, SIF 107:1\), s. 5, Sch. 4 para. 7\(2\)](#)

#### Marginal Citations

- M2** [1988 c. 53.](#)

### [<sup>F13</sup>125A Registration of disabled persons.

- (1) A person who—
  - (a) suffers from a relevant disability or a prospective disability,
  - (b) holds a current disabled person’s limited driving licence, and
  - (c) holds a current emergency control certificate,may apply to the Registrar for his name to be entered in the register as that of a disabled instructor.
- (2) An application under subsection (1) above shall be made in such manner, and shall be accompanied by such particulars, as the Secretary of State may determine.
- (3) If, at the time when he makes an application under subsection (1) above, a person is aware—

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- (a) that he is suffering from a relevant or prospective disability which he has not previously disclosed to the Secretary of State in making an application for his current emergency control certificate, or
  - (b) that a relevant or prospective disability from which he has at any time suffered (and which has been previously so disclosed) has become more acute since the granting of his current emergency control certificate,
- his application under subsection (1) above must be accompanied by written notification of the nature and extent of his disability.
- (4) Any person who fails without reasonable excuse to comply with the requirement imposed by subsection (3) above is guilty of an offence.
- (5) Where a person duly applies for the entry of his name in the register as that of a disabled instructor and satisfies the Registrar that the conditions in subsection (6) below are fulfilled in his case, the Registrar must, subject to section 125B(4) of this Act, on payment of such fee, if any, as may be prescribed by regulations, enter the applicant's name in the register with an indication that he is a disabled person.
- (6) The conditions referred to in subsection (5) above are that—
- (a) the applicant has passed such examination of ability to give instruction in the driving of motor cars (consisting of a written examination, a practical test of ability and fitness to drive and a practical test of ability and fitness to instruct) as may be prescribed by regulations,
  - (b) the conditions set out in paragraphs (c) and (d) of section 125(3) of this Act are fulfilled, and
  - (c) apart from the fulfilment of the preceding conditions, he is a fit and proper person to have his name entered in the register as that of a disabled instructor;
- and for the purposes of paragraph (b) above, references in paragraphs (c) and (d) of subsection (3) of section 125 of this Act to the making of an application under subsection (2) of that section shall be read as references to the making of an application under subsection (1) above.
- (7) Regulations may provide that persons of such class as may be specified in the regulations shall be exempt from the condition mentioned in paragraph (a) of subsection (6) above as regards such part of the examination mentioned in that paragraph as may be so specified.
- (8) In this Part of this Act—
- “appropriate motor car” means, subject to section 125B(2) of this Act, a motor car equipped with automatic transmission;
  - “disability” means a want of physical ability affecting the driving of motor cars; and
  - (i) “relevant disability”, in relation to a person, means any disability which is prescribed in regulations or any other disability likely to cause the driving of a motor car by him to be a source of danger to the public; and
  - (ii) “prospective disability”, in relation to a person, means any other disability which, at the material time, is not of such a kind that it is a relevant disability but, by virtue of the intermittent or progressive nature of the disability or otherwise, may become a relevant disability in course of time;
  - “disabled person's limited driving licence” means a licence of one of the following kinds, that is to say—

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- (a) a licence to drive a motor car granted under Part III of this Act (not being a provisional licence) which is limited, by virtue of a notice served under section 92(5)(b) of this Act, to an appropriate motor car; <sup>F14</sup> . . .
- (b) a licence to drive a motor car granted under the law in force in Northern Ireland (not being a licence corresponding to a provisional licence) which is similarly limited by virtue of any corresponding provision of that law; <sup>F15</sup> and
- <sup>F15</sup>(c) a Community licence authorising the driving of a motor car which is similarly limited by virtue of any corresponding provision of the law under which it was issued and a counterpart of that licence;]

“emergency control assessment” and “emergency control certificate” mean an assessment and a certificate under section 133A of this Act;

“modifications”, in relation to a motor car, includes equipment; and

“registered disabled instructor” means a person whose name is in the register with an indication that he is disabled;

and any reference, in relation to a person, to the class of motor car covered by his disabled person’s limited driving licence is a reference to the class of motor car specified in the notice served on him under section 92(5)(b) of this Act but disregarding any modifications specified in the notice.]

#### Textual Amendments

**F13** S. 125A inserted (9.9.1996) by 1993 c. 31, s. 1; S.I. 1996/1980, art. 2

**F14** Word “and” in definition of “disabled persons limited driving licence” in s. 125A(8)(a) omitted (1.4.1999) by virtue of 1999/357, reg. 2(3)(a)

**F15** S. 125A(8)(c) and preceding word “and” inserted (1.4.1999) by S.I. 1999/357, reg. 2(3)(b)

#### Modifications etc. (not altering text)

**C6** S. 125A excluded (23.6.1999) by S.I. 1999/1736, art. 8(2)(b)

**C7** S. 125A modified (10.8.2005) by The Motor Cars (Driving Instruction) Regulations 2005 (S.I. 2005/1902), reg. 9

#### <sup>F16</sup>125B Provisions supplementary to section 125A.

- (1) A person who fulfils the conditions mentioned in section 125A(1)(a) and (b) of this Act may, for the purpose of obtaining an emergency control certificate, apply to undergo an emergency control assessment.
- (2) Regulations may specify modifications of a motor car as modifications which are to be required for a motor car to be an appropriate motor car for the purposes of this Part of this Act or as modifications which are not to be required for a motor car to be an appropriate motor car for those purposes.
- (3) If the Secretary of State is satisfied—
  - (a) that the provision of the law of Northern Ireland required by section 125(7) for the operation of that subsection is made by that law, and
  - (b) that that law includes satisfactory provision for purposes corresponding to the purposes of section 125A of this Act,

a person who satisfies the Registrar of the matters mentioned in that subsection and that his name is in the register maintained under that law as that of a disabled instructor

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shall also be exempt from the conditions mentioned in subsection (1)(c) and (6)(a) of section 125A of this Act.

- (4) The Registrar may refuse to enter the name of a person in the register under section 125A of this Act as that of a disabled instructor if he is satisfied that that person has at any time refused to comply with a requirement imposed under section 133B(2) of this Act to submit himself for a further emergency control assessment.
- (5) The Registrar must, on making a decision on an application under section 125A of this Act, give notice in writing of his decision to the applicant which, in the case of a decision to refuse the application, must state the grounds for the refusal.
- (6) The entry of a person's name in the register as that of a disabled instructor shall be subject to the condition that, so long as he is a registered disabled instructor, he will, if at any time required to do so by the Registrar—
  - (a) submit himself for a further emergency control assessment on the day (within such period as may be prescribed by regulations) and at the place specified by the Registrar; or
  - (b) submit himself for such test of continued ability and fitness to give instruction in the driving of appropriate motor cars [<sup>F17</sup>(which may consist of practical and other means of assessment)] as may be prescribed by regulations.
- (7) In considering whether to exercise, in respect of any person, his power under subsection (6)(a) above, the Registrar shall have regard to any recommendation included in that person's current emergency control certificate as to the period after the end of which he should undergo a further emergency control assessment.]

#### Textual Amendments

**F16** S. 125B inserted (9.9.1996) by 1993 c. 31, s. 1; S.I. 1996/1980, art. 2

**F17** Words in s. 125B(6)(b) inserted (1.4.2002) by 2000 c. 38, s. 260, Sch. 29 para. 8; S.I. 2002/658, art. 2(2), Sch. Pt. 2

## 126 Duration of registration.

- (1) Unless previously removed under the following provisions of this Part of this Act, the name of a person shall, subject to subsection (2) below, be removed from the register at the end of the period of four years beginning with—
  - (a) the first day of the month next after that in which the entry of his name was made, or
  - (b) where his name has been retained in the register under section 127 of this Act, the day with which the last further period for which his name was so retained began.
- (2) If an application for the retention of his name in the register is made under section 127 of this Act before the end of that period, the name must not be removed except in pursuance of a decision of the Registrar having effect under that section.
- (3) Where a person whose name has been removed from the register under subsection (1) above applies under section 125(2) of this Act for his name to be entered again in the register, he shall be required again to pass the examination mentioned in section 125(3) (a) of this Act unless the application is made before the end of the period of one year beginning with the end of the period of four years mentioned in subsection (1) above.



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[<sup>F18</sup>(4) Where a registered disabled instructor whose name has been removed from the register under subsection (1) above applies under section 125A(1) of this Act for his name to be entered again in the register as that of a disabled instructor, he shall be required again to pass the examination mentioned in section 125A(6)(a) of this Act unless the application is made before the end of the period of one year beginning with the end of the period of four years mentioned in subsection (1) above.]

#### Textual Amendments

**F18** S. 126(4) inserted (9.9.1996) by 1993 c. 31, s. 6, Sch. para. 4; S.I. 1996/1980, art. 2

#### Modifications etc. (not altering text)

**C8** S. 126 excluded (23.6.1999) by S.I. 1999/1736, art. 8(1)(b)(2)(b)

### 127 Extension of duration of registration.

- (1) A person may, before the time when his name is required under section 126(1) of this Act to be removed from the register, apply to the Registrar, in manner determined by the Secretary of State, accompanied by particulars so determined, for the retention of his name in the register for a further period of four years.
- (2) On an application under subsection (1) above, he shall be entitled, on payment of such fee, if any, as may be prescribed by regulations, to have his name retained in the register for that further period, if he satisfies the Registrar that the [<sup>F19</sup>relevant] conditions are fulfilled in his case.
- (3) [<sup>F20</sup>Except in the case of a registered disabled instructor, the relevant conditions are]—
  - (a) that he has not refused to undergo any such test as is mentioned in section 125(5) of this Act which he has been required to undergo during the period of four years ending with the time when his name is required under section 126(1) of this Act to be removed from the register,
  - (b) that his ability and fitness to give instruction in the driving of motor cars continue, having regard to any such test or tests which he has undergone during that period, to be of a satisfactory standard,
  - (c) that he is the holder of a current licence of one of the kinds mentioned in section 125(3)(b) of this Act,
  - (d) that he has not during any part of that period been disqualified under section 34 or 36 of the <sup>M3</sup>Road Traffic Offenders Act 1988 for holding or obtaining a licence to drive a motor vehicle granted under Part III of this Act, and
  - (e) that, apart from fulfilment of the preceding conditions, he continues to be a fit and proper person to have his name entered in the register.

[<sup>F21</sup>(3A) In the case of a registered disabled instructor, the relevant conditions are—

- (a) that he holds a current emergency control certificate,
- (b) that he has not refused to undergo—
  - (i) any such assessment as is mentioned in section 125B(6)(a) of this Act, or
  - (ii) any such test as is mentioned in section 125B(6)(b) of this Act,

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which he has been required to undergo during the period of four years ending with the time when his name is required under section 126(1) of this Act to be removed from the register,

- (c) that his ability and fitness to give instruction in the driving of motor cars continue, having regard to any such test or tests of the kind mentioned in section 125B(6)(b) of this Act which he has undergone during that period, to be of a satisfactory standard,
- (d) that he is the holder of a current disabled person's limited driving licence,
- (e) that he has not during any part of that period been disqualified under section 34 or 36 of the Road Traffic Offenders Act 1988 for holding or obtaining a licence to drive a motor vehicle granted under Part III of this Act, and
- (f) that, apart from fulfilment of the preceding conditions, he continues to be a fit and proper person to have his name entered in the register as that of a disabled instructor.]

[<sup>F22</sup>(4) The retention of a person's name under this section shall be subject—

- (a) in the case of its retention by virtue of subsection (3) above, to the condition mentioned in section 125(5) of this Act, and
- (b) in the case of its retention by virtue of subsection (3A) above, to the condition mentioned in section 125B(6) of this Act.]

(5) Before refusing an application under subsection (1) above the Registrar must give to the applicant written notice stating that he is considering the refusal of the application and giving particulars of the grounds on which he is considering it.

(6) Where the Registrar gives notice under subsection (5) above—

- (a) the applicant may, within the period of twenty-eight days beginning with the day on which the notice is given, make representations with respect to the proposed refusal,
- (b) the Registrar must not decide to refuse the application until after the expiration of that period, and
- (c) before deciding whether or not to refuse the application, the Registrar must take into consideration any such representations made by the applicant within that period.

(7) On deciding to grant or refuse an application the Registrar must give notice in writing of the decision to the person concerned.

[<sup>F23</sup>(7A) A decision to refuse an application shall take effect at the end of the period of fourteen days beginning with the day on which notice of the decision is given (or, if any appeal brought against the decision under the following provisions of this Part of this Act is previously withdrawn or dismissed, when the appeal is withdrawn or dismissed).]

(8) [<sup>F24</sup>But the Registrar may, when giving notice of his decision to refuse the application, direct that the decision shall instead] take effect—

- (a) where no appeal under the following provisions of this Part of this Act is brought against the decision within the time limited for the appeal, on the expiration of that time,
- (b) where such an appeal is brought and is withdrawn or struck out for want of prosecution, on the withdrawal or striking out of the appeal,
- (c) where such an appeal is brought and not withdrawn or struck out for want of prosecution, if and when the appeal is dismissed, and not otherwise.

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*Changes to legislation: Road Traffic Act 1988, Part V is up to date with all changes known to be in force on or before 11 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

### Textual Amendments

- F19** Word in s. 127(2) substituted (9.9.1996) by 1993 c. 31, s. 6, **Sch. para. 5(2)**; S.I. 1996/1980, **art. 2**
- F20** Words in s. 127(3) substituted (9.9.1996) by 1993 c. 31, s. Sch. para. 5(3); S.I. 1996/1980, **art. 2**
- F21** S. 127(3A) inserted (9.9.1996) by 1993 c. 31, s. 6, **Sch. para. 5(4)**; S.I. 1996/1980, **art. 2**
- F22** S. 127(4) substituted (9.9.1996) by 1993 c. 31, s. 6, **Sch. para. 5(5)**; S.I. 1996/1980, **art. 2**
- F23** S. 127(7A) inserted (1.4.2002) by 2000 c. 38, **s. 259(1)**; S.I. 2002/658, art. 2(2), **Sch. Pt. 2** (with art. 3(1))
- F24** Words in s. 127(8) substituted (1.4.2002) by 2000 c. 38, **s. 259(1)**; S.I. 2002/658, art. 2(2), **Sch. Pt. 2** (with art. 3(1))

### Modifications etc. (not altering text)

- C9** S. 127 excluded (23.6.1999) by S.I. 1999/1736, **art. 8(1)(b)(2)(b)**
- C10** S. 127(3) modified (1.1.2007) by The Motor Cars (Driving Instruction) Regulations 2005 (S.I. 2005/1902), **reg. 11**
- C11** S. 127(3)(d) extended by Road Traffic (Consequential Provisions) Act 1988 (c. 54, SIF 107:1), s. 5, **Sch. 4 para. 7(2)**
- C12** S. 127(3A) modified (1.1.2007) by The Motor Cars (Driving Instruction) Regulations 2005 (S.I. 2005/1902), **reg. 11**

### Marginal Citations

- M3** 1988 c. 53.

## 128 Removal of names from register.

- (1) The Registrar may remove the name of a person from the register if he is satisfied that—
- in a case where his name has not been retained in the register under section 127 of this Act, at any time since the entry of his name was made, and
  - in a case where his name has been so retained under that section, at any time since it was last retained,
- any of the [<sup>F25</sup>relevant] conditions was fulfilled in his case.
- (2) [<sup>F26</sup>Except in the case of a registered disabled instructor, the relevant conditions are]—
- that he held [<sup>F27</sup>none] of the kinds of current licence mentioned in section 125 (3)(b) of this Act,
  - that he was disqualified under section 34 or 36 of the <sup>M4</sup>Road Traffic Offenders Act 1988 for holding or obtaining a licence to drive a motor vehicle under Part III of this Act,
  - that he refused to undergo a test such as is mentioned in section 125 (5) of this Act,
  - that he failed to pass such a test,
  - that he ceased, apart from fulfilment of any of the preceding conditions, to be a fit and proper person to have his name included in the register.
- [<sup>F28</sup>(2A) In the case of a registered disabled instructor, the relevant conditions are—
- that he did not hold a current emergency control certificate,
  - that he did not hold a current disabled person's limited driving licence,

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- (c) that he was disqualified under section 34 or 36 of the Road Traffic Offenders Act 1988 for holding or obtaining a licence to drive a motor vehicle under Part III of this Act,
  - (d) that he refused to undergo any such assessment as is mentioned in section 125B(6)(a) of this Act,
  - (e) that he refused to undergo, or failed to pass, any such test as is mentioned in section 125B(6)(b) of this Act,
  - (f) that he ceased, apart from fulfilment of the preceding conditions, to be a fit and proper person to have his name included in the register as that of a disabled instructor.]
- (3) The Registrar may remove the name of a person from the register if the entry of his name in the register, or the retention of his name in the register, was made by mistake or procured by fraud.
- (4) Before removing the name of a person from the register under this section, the Registrar must give him written notice stating that he is considering the removal and giving particulars of the grounds on which he is considering it.
- (5) Where the Registrar gives notice to a person under subsection (4) above—
- (a) that person may, within the period of twenty-eight days beginning with the day on which the notice is given, make representations with respect to the proposed removal,
  - (b) the Registrar must not decide to remove his name from the register until after the expiration of that period, and
  - (c) before deciding whether or not to remove his name from the register, the Registrar must take into consideration any such representations made by him within that period.
- (6) The Registrar must, on making a decision to remove a name from the register, give notice in writing of the decision to the person concerned.
- [<sup>F29</sup>(6A) A decision to remove a name from the register shall take effect at the end of the period of fourteen days beginning with the day on which notice of the decision is given (or, if any appeal brought against the decision under the following provisions of this Part of this Act is previously withdrawn or dismissed, when the appeal is withdrawn or dismissed).]
- (7) [<sup>F30</sup>But the Registrar may, when giving notice of his decision to remove the name from the register, direct that the decision shall instead] take effect—
- (a) where no appeal under the following provisions of this Part of this Act is brought against the decision within the time limited for the appeal, on the expiration of that time,
  - (b) where such an appeal is brought and is withdrawn or struck out for want of prosecution, on the withdrawal or striking out of the appeal,
  - (c) where such an appeal is brought and not withdrawn or struck out for want of prosecution, if and when the appeal is dismissed, and not otherwise.
- [<sup>F31</sup>(8) Where a person whose name has been removed from the register under this section applies under subsection (2) of section 125 of this Act for his name to be entered again in the register and either—
- (a) the application is made after the end of the period of one year beginning with the date on which his name was removed; or

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(b) his name was removed on the grounds that he has failed to pass such a test as is mentioned in subsection (5) of that section,

the Registrar shall not regard the condition specified in paragraph (a) of subsection (3) of that section as fulfilled unless he is satisfied that that person has again passed the examination mentioned in that paragraph since the date on which his name was removed from the register.]

[<sup>F32</sup>(9) Where a person whose name was entered in the register as that of a disabled instructor and whose name has been removed from the register under this section applies under subsection (1) of section 125A of this Act for his name to be entered again in the register as that of a disabled instructor and either—

(a) the application is made after the end of the period of one year beginning with the date on which his name was removed, or

(b) his name was removed on the ground that he has failed to pass such a test as is mentioned in section 125B(6)(b) of this Act,

the Registrar shall not regard the condition mentioned in section 125A(6)(a) of this Act as fulfilled unless he is satisfied that that person has again passed the examination mentioned in the said section 125A(6)(a) since the date on which his name was removed from the register.]

#### Textual Amendments

- F25** Word in s. 128(1) substituted (9.9.1996) by 1993 c. 31, s. 6, **Sch. para. 6(2)**; S.I. 1996/1980, **art. 2**
- F26** Words in s. 128(2) substituted (9.9.1996) by 1993 c. 31, s. 6, **Sch. para. 6(3)**; S.I. 1996/1980, **art. 2**
- F27** Word in s. 128(2)(a) substituted (1.4.1999) by S.I. 1999/357, **reg. 2(4)**
- F28** S. 128(2A) inserted (9.9.1996) by 1993 c. 31, s. 6, **Sch. para. 6(4)**; S.I. 1996/1980, **art. 2**
- F29** S. 128(6A) inserted (1.4.2002) by 2000 c. 38, s. 259(2); S.I. 2002/658, art. 2(2), **Sch. Pt. 2** (with art. 3(1))
- F30** Words in s. 128(7) substituted (1.4.2002) by 2000 c. 38, s. 259(2); S.I. 2002/658, art. 2(2), **Sch. Pt. 2** (with art. 3(1))
- F31** S. 128(8) inserted by S.I. 1991/1129, **art. 2**
- F32** S. 128(9) inserted (9.9.1996) by 1993 c. 31, s. 6, **Sch. para. 6(5)**; S.I. 1996/1980, **art. 2**

#### Modifications etc. (not altering text)

- C13** S. 128 excluded (23.6.1999) by S.I. 1999/1736, **art. 8(1)(b)(2)(b)**
- C14** S. 128(2) modified (1.1.2007) by The Motor Cars (Driving Instruction) Regulations 2005 (S.I. 2005/1902), **reg. 10**
- C15** S. 128(2)(b) extended by Road Traffic (Consequential Provisions) Act 1988 (c. 54, SIF 107:1), s. 5, **Sch. 4 para. 7(2)**
- C16** S. 128(2A) modified (1.1.2007) by The Motor Cars (Driving Instruction) Regulations 2005 (S.I. 2005/1902), **reg. 10**

#### Marginal Citations

- M4** 1988 c. 53.

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## *Licences*

### **129 Licences for giving instruction so as to obtain practical experience.**

- (1) A licence under this section is granted for the purpose of enabling a person to acquire practical experience in giving instruction in driving motor cars with a view to undergoing [<sup>F33</sup>either—
- (a)] such part of the examination referred to in section 125(3)(a) of this Act [<sup>F34</sup>, or
  - (b) such part of any examination prescribed for the purposes of section 125A(6)(a) of this Act,]
- as consists of a practical test of ability and fitness to instruct.
- [<sup>F35</sup>(2) Subject to subsection (3) below, where a person applies to the Registrar in the manner determined by the Secretary of State, accompanied by particulars so determined, and the Registrar is satisfied either—
- (a) that the applicant has passed the other parts of the examination referred to in subsection (1)(a) above and that the conditions set out in section 125(3)(b) to (e) of this Act are fulfilled in his case, or
  - (b) that the applicant has passed the other parts of the examination referred to in subsection (1)(b) above and that—
    - (i) he holds a current disabled person’s limited driving licence and a current emergency control certificate, and
    - (ii) the conditions referred to in subsection (6)(b) and the condition set out in subsection (6)(c) of section 125A of this Act are fulfilled in his case,
- the Registrar must, on payment of such fee, if any, as may be prescribed by regulations, grant to the applicant a licence to give paid instruction in the driving of a motor car.]
- (3) The Registrar may refuse to grant a licence under this section to an applicant to whom such a licence has previously been issued.
- (4) The Registrar must, on making a decision on an application under subsection (2) above, give notice in writing of the decision to the applicant which, in the case of a decision to refuse the application, must state the grounds of the refusal.
- (5) A licence under this section shall be in such form, shall be in force for such period, [<sup>F36</sup>and, subject to subsection (5A) below, shall]be granted subject to such conditions, as may be prescribed by regulations.
- [<sup>F37</sup>(5A) A licence granted by virtue of paragraph (b) of subsection (2) above shall be granted subject to the condition that the person to whom it is granted shall not give paid instruction in the driving of a motor car—
- (a) unless he holds a current emergency control certificate, and
  - (b) the car is an authorised motor car.
- (5B) In subsection (5A) above “authorised motor car”, in relation to any person, means a motor car which falls within the class of motor car specified in his current emergency control certificate and, where modifications are specified in that certificate, is modified in accordance with the specification.]
- (6) Notwithstanding any provision of regulations made by virtue of subsection (5) above prescribing the period for which a licence is to be in force, where a person applies for

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a new licence in substitution for a licence held by him and current at the date of the application, the previous licence shall not expire—

- (a) until the commencement of the new licence, or
  - (b) if the Registrar decides to refuse the application, until the time limited for an appeal under the following provisions of this Part of this Act against the decision has expired and, if such an appeal is duly brought, it is finally disposed of.
- (7) Before deciding to refuse an application for a new licence in substitution for a licence current at the date of the application, the Registrar must give to the applicant written notice stating that he is considering the refusal and giving particulars of the grounds on which he is considering it.
- (8) Where the Registrar gives notice under subsection (7) above—
- (a) the applicant may, within the period of fourteen days beginning with the day on which the notice is given, make representations with respect to the proposed refusal, and
  - (b) the Registrar must not decide to refuse the application until after the expiration of that period, and
  - (c) before deciding whether or not to refuse the application, the Registrar must take into consideration any such representations made within that period.

#### Textual Amendments

- F33** Words in s. 129(1) inserted (9.9.1996) by 1993 c. 31, s. 2(1)(a); S.I. 1996/1980, art. 2
- F34** Words in s. 129(1) inserted (9.9.1996) by 1993 c. 31, s. 2(1)(b); S.I. 1996/1980, art. 2
- F35** S. 129(2) substituted (9.9.1996) by 1993 c. 31, s. 2(2); S.I. 1996/1980, art. 2
- F36** Words in s. 129(5) substituted (9.9.1996) by 1993 c. 31, s. 2(3); S.I. 1996/1980, art. 2
- F37** S. 129(5A)(5B) inserted (9.9.1996) by 1993 c. 31, s. 2(4); S.I. 1996/1980, art. 2

#### Modifications etc. (not altering text)

- C17** S. 129 excluded (23.6.1999) by S.I. 1999/1736, art. 8(1)(b)(2)(b)

### 130 Revocation of licences.

- (1) The registrar may revoke a licence granted under section 129 of this Act—
- (a) if the person to whom the licence was granted fails to comply with any of the conditions subject to which it was granted, or
  - (b) if the Registrar is satisfied that, at any time since the licence was granted, any of the [<sup>F38</sup>relevant conditions] was fulfilled in his case, or
  - (c) if the licence was granted by mistake or procured by fraud.
- (2) [<sup>F39</sup>Except in the case of a licence granted by virtue of subsection (2)(b) of section 129 of this Act, the relevant conditions are]—
- (a) that he held [<sup>F40</sup>none] of the kinds of current licence mentioned in section 125 (3)(b) of this Act, or
  - (b) that he was disqualified under section 34 or 36 of the <sup>M5</sup>Road Traffic Offenders Act 1988 for holding or obtaining a licence to drive a motor vehicle under Part III of this Act, or
  - (c) that he ceased, apart from fulfilment of either of the preceding conditions, to be a fit and proper person to have his name in the register.

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- [<sup>F41</sup>(2A) In the case of a licence granted by virtue of subsection (2)(b) of section 129 of this Act, the relevant conditions are—
- (a) that he did not hold a current emergency control certificate, or
  - (b) that he did not hold a current disabled person's limited driving licence, or
  - (c) that he was disqualified under section 34 or 36 of the Road Traffic Offenders Act 1988 for holding or obtaining a licence to drive a motor vehicle under Part III of this Act, or
  - (d) that he ceased, apart from fulfilment of any of the preceding conditions, to be a fit and proper person to have his name in the register as that of a disabled instructor.]
- (3) Before revoking a licence granted to a person [<sup>F42</sup>under this section] the Registrar must give him written notice stating that he is considering the revocation and giving particulars of the grounds on which he is considering it.
- (4) Where the Registrar gives notice to a person under subsection (3) above—
- (a) that person may, within the period of fourteen days beginning with the day on which the notice is given, make representations with respect to the proposed revocation, and
  - (b) the Registrar must not decide to revoke the licence until after the expiration of that period, and
  - (c) before deciding whether or not to revoke the licence, the Registrar must take into consideration any such representations made within that period.
- (5) The Registrar must, on making a decision to revoke a licence [<sup>F42</sup>granted under this section], give notice in writing of the decision to the person concerned.
- [<sup>F43</sup>(5A) A decision to revoke a licence shall take effect at the end of the period of fourteen days beginning with the day on which notice of the decision is given (or, if any appeal brought against the decision under the following provisions of this Part of this Act is previously withdrawn or dismissed, when the appeal is withdrawn or dismissed).
- (6) But the Registrar may, when giving notice of his decision to revoke a licence, direct that (if an appeal under the following provisions of this Part of this Act is brought against the decision) it shall instead take effect—
- (a) if the appeal is withdrawn or struck out for want of prosecution, on the withdrawal or striking out of the appeal, or
  - (b) if and when the appeal is dismissed, and not otherwise.]

#### Textual Amendments

- F38** Words in s. 130(1)(b) substituted (9.9.1996) by 1993 c. 31, s. 6, **Sch. para. 7(2)**; S.I. 1996/1980, **art. 2**
- F39** Words in s. 130(2) substituted (9.9.1996) by 1993 c. 31, s. 6, **Sch. para. 7(3)**; S.I. 1996/1980, **art. 2**
- F40** Word in s. 130(2)(a) substituted (1.4.1999) by S.I. 1999/357, **reg. 2(4)**
- F41** S. 130(2A) inserted (9.9.1996) by 1993 c. 31, s. 6 **Sch. para. 7(4)**; S.I. 1996/1980, **art. 2**
- F42** Words in s. 130(3)(5) repealed (1.4.2002) by 2000 c. 38, s. 274, **Sch. 31 Pt. V(1)**; S.I. 2002/658, **art. 2(2)**, **Sch. Pt. 2** (as amended by S.I. 2002/846, **art. 2(2)**)
- F43** S. 130(5A)(6) substituted (1.4.2002) for s. 130(6) by 2000 c. 38, s. 259(3); S.I. 2002/658, **art. 2(2)**, **Sch. Pt. 2**

#### Modifications etc. (not altering text)

- C18** S. 130 excluded (23.6.1999) by S.I. 1999/1736, **art. 8(1)(b)(2)(b)**



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**C19** S. 130(2)(b) extended by Road Traffic (Consequential Provisions) Act 1988 (c. 54, SIF 107:1), s. 5, Sch. 4 para. 7(2)

#### Marginal Citations

**M5** 1988 c. 53.

### Appeals

#### 131 Appeals.

- (1) A person who is aggrieved by a decision of the Registrar—
    - (a) to refuse an application for the entry of his name in the register, or
    - (b) to refuse an application for the retention of his name in the register, or
    - (c) to remove his name from the register,may by notice in writing appeal to the [<sup>F44</sup>Transport Tribunal] within the period of twenty-eight days beginning with the day on which notice of the decision was given in accordance with this Part of this Act.
  - (2) A person who is aggrieved by a decision of the Registrar—
    - (a) to refuse an application for the grant of a licence under this Part of this Act, or
    - (b) to revoke such a licence,may by notice in writing appeal to the [<sup>F44</sup>Transport Tribunal] within the period of fourteen days beginning with the day on which notice of the decision was given in accordance with this Part of this Act.
  - (3) On the appeal the [<sup>F45</sup>Transport Tribunal] may make such order—
    - (a) for the grant or refusal of the application or,
    - (b) for the removal or the retention of the name in the register, or the revocation or continuation of the licence,(as the case may be) as [<sup>F46</sup>they think] fit.
  - (4) An order for such refusal, removal or revocation may direct that an application by the appellant—
    - (a) for the grant of a licence under this Part of this Act, or
    - (b) for his name to be entered in the register,shall not be entertained before the expiration of such period, not exceeding four years beginning with the day on which the order is made, as may be specified in the order.
- [<sup>F47</sup>(4A) If the Tribunal consider that any evidence adduced on an appeal had not been adduced to the Registrar before he gave the decision to which the appeal relates, they may (instead of making an order under subsection (3) above) remit the matter to the Registrar for him to reconsider the decision.]
- [<sup>F48</sup>(4B) A person who is aggrieved by a decision of the Registrar not to give a direction under section 127(8), 128(7) or 130(6) of this Act may by notice in writing appeal to the Transport Tribunal within the period of ten days beginning with the day on which notice of the decision is given.
- (4C) The Transport Tribunal shall determine the appeal by either—
    - (a) giving the direction concerned, or
    - (b) dismissing the appeal,

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within the period of fourteen days beginning with the day on which notice of the decision is given.

(4D) Where the Registrar has decided to refuse an application for the retention of a name in the register, to remove a name from the register or to revoke a licence granted under section 129 of this Act but either—

- (a) he gave a direction under section 127(8), 128(7) or 130(6) of this Act, or
- (b) the Transport Tribunal have given such a direction on appeal,

he may by notice in writing apply to the Transport Tribunal for an order that the decision is to take effect immediately.

(4E) The Transport Tribunal shall determine the Registrar's application by either granting or refusing the application, within the period of fourteen days beginning with the day on which it is made.

(4F) The Transport Tribunal may only grant the application if they consider that a failure to do so might prejudicially affect—

- (a) the well-being of any person to whom the person concerned may give instruction in the driving of a motor car, or
- (b) the safety of road users.]

[<sup>F49</sup>(4G) On an appeal under this section the respondent is the Registrar.]

(5) <sup>F50</sup> .....

#### Textual Amendments

**F44** Words in s. 131(1)(2) substituted (1.4.2002) by 2000 c. 38, s. 258(1)(2); S.I. 2002/658, art. 2(2), **Sch. Pt. 2**

**F45** Words in s. 131(3) substituted (1.4.2002) by 2000 c. 38, s. 258(1)(3)(a); S.I. 2002/658, art. 2(2), **Sch. Pt. 2**

**F46** Words in s. 131(3) substituted (1.4.2002) by 2000 c. 38, s. 258(1)(3)(b); S.I. 2002/658, art. 2(2), **Sch. Pt. 2**

**F47** S. 131(4A) inserted (1.4.2002) by 2000 c. 38, s. 258(1)(4); S.I. 2002/658, art. 2(2), **Sch. Pt. 2**

**F48** S. 131(4B)-(4F) inserted (1.4.2002) by 2000 c. 38, s. 259(4); S.I. 2002/658, art. 2(2), **Sch. Pt. 2**

**F49** S. 131(4G) is inserted (1.4.2002) by virtue of 2000 c. 38, s. 260, **Sch. 29 para. 12**; S.I. 2002/658, art. 2(2), **Sch. Pt. 2**

**F50** S. 131(5) repealed (1.4.2002) by 2000 c. 38, s. 274, **Sch. 31 Pt. V(1)**; S.I. 2002/658, art. 2(2), **Sch. Pt. 2** (with art. 3(2))

#### Modifications etc. (not altering text)

**C20** S. 131 excluded (23.6.1999) by S.I. 1999/1736, **art. 8(1)(b)(2)(b)**

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VALID FROM 08/06/2012

## *F<sup>51</sup>* Compensation

### Textual Amendments

- F51** S. 131A and crossheading inserted (8.6.2012 for specified purposes, 6.7.2012 so far as not already in force) by [Driving Instruction \(Suspension and Exemption Powers\) Act 2009 \(c. 17\), s. 7\(3\), Sch. 1 para. 7](#); S.I. 2012/1356, arts. 3(b), 4(a)

### 131A Compensation in respect of suspension

- (1) The Secretary of State must by regulations make a scheme for the making of payments by the Secretary of State to persons in respect of one or more of the following—
  - (a) income losses incurred by them as a result of their registrations or licences being suspended by virtue of section 128(7A) to (7G) or (as the case may be) 130(7) to (13),
  - (b) non-income losses so incurred, and
  - (c) any other matters which relate to either such suspension and are provided for in the scheme.
- (2) No payments may be made under a scheme in respect of the suspension of a person's registration or licence unless—
  - (a) the suspension is terminated because the Registrar decides not to remove the person's name from the register or (as the case may be) not to revoke the licence,
  - (b) an appeal is successfully concluded against the decision of the Registrar to remove the person's name from the register or (as the case may be) to revoke the licence (whether or not the Registrar's decision has taken effect), or
  - (c) any other circumstances provided for in the scheme apply.
- (3) Where the decision of the Registrar to remove the person's name from the register or to revoke the licence has taken effect before an appeal against it is successfully concluded, any payments under a scheme may relate only to the suspension.
- (4) A scheme may, in particular, specify—
  - (a) the description or descriptions of income losses, or
  - (b) the description or descriptions of non-income losses,in respect of which payments are to be made but need not provide for the making of payments in respect of all income losses or all non-income losses or for the making of payments which correspond to the full amount of any income losses or non-income losses.
- (5) A scheme may also, in particular—
  - (a) specify the basis or bases of valuation for determining losses or the person who is to decide their valuation,
  - (b) specify the amounts of payments to be made or the basis or bases on which such amounts are to be calculated,

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- (c) provide for the procedure to be followed (including when claims may be made and the provision of information) in respect of claims under the scheme and for the determination of such claims.
- (6) A person who is aggrieved by a decision of the Secretary of State as to the person's entitlement to payments under a scheme or the amounts of any such payments may appeal to the First-tier Tribunal.
- (7) On an appeal, the First-tier Tribunal may make such order as it considers appropriate.
- (8) If the Tribunal considers that any evidence adduced on an appeal had not been adduced to the Secretary of State before the making of the decision to which the appeal relates, the Tribunal may (instead of making an order under subsection (7)) remit the matter to the Secretary of State for the Secretary of State to reconsider the decision.
- (9) In this section—
  - “income losses” means losses of income, and
  - “non-income losses” means losses other than income losses.]

### *Examinations and tests*

## **132 Examinations and tests of ability to give driving instruction.**

- (1) Regulations may make provision with respect to—
  - (a) the nature of examinations of the ability of persons to give instruction in the driving of motor cars and tests of continued ability and fitness to give [<sup>F52</sup>instruction in the driving of motor cars (or appropriate motor cars)], and
  - (b) evidence of the results of such tests and examinations, and generally with respect to such tests and examinations.
- (2) In particular, but without prejudice to the generality of subsection (1) above, the regulations may make provision—
  - (a) for requiring a person submitting himself [<sup>F53</sup>for any] part of such an examination which consists of a practical test, or to [<sup>F54</sup>any part of such a test of continued ability and fitness which consists of practical assessment], to provide a vehicle for the purposes of [<sup>F55</sup>the practical test or assessment], being a vehicle in respect of which such conditions as may be specified in regulations are complied with,
  - (b) for requiring a person applying to submit himself for any part of such an examination [<sup>F56</sup>, or required to submit himself for such a test,] to pay to the Registrar such fee as may be specified in the regulations in relation to that part [<sup>F57</sup>or such tests,], and
  - (c) for requiring a person who desires to submit himself for any part of such an examination [<sup>F58</sup>, or is required to submit himself for such a test] to supply the Registrar with such particulars as the Secretary of State may determine.

#### **Textual Amendments**

**F52** Words in s. 132(1) substituted (1.4.2002) by 2000 c. 38, s. 260, **Sch. 29 para. 9(1)(2)**; S.I. 2002/658, art. 2(2), **Sch. Pt. 2**

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- F53** Words in s. 132(2)(a) substituted (1.4.2002) by 2000 c. 38, s. 260, **Sch. 29 para. 9(1)(3)(a)(i)**; S.I. 2002/658, art. 2(2), **Sch. Pt. 2**
- F54** Words in s. 132(2)(a) substituted (1.4.2002) by 2000 c. 38, s. 260, **Sch. 29 para. 9(1)(3)(a)(ii)**; S.I. 2002/658, art. 2(2), **Sch. Pt. 2**
- F55** Words in s. 132(2)(a) substituted (1.4.2002) by 2000 c. 38, s. 260, **Sch. 29 para. 9(1)(3)(a)(iii)**; S.I. 2002/658, art. 2(2), **Sch. Pt. 2**
- F56** Words in s. 132(2)(b) inserted (1.4.2002) by 2000 c. 38, s. 260, **Sch. 29 para. 9(1)(3)(b)(i)**; S.I. 2002/658, art. 2(2), **Sch. Pt. 2**
- F57** Words in s. 132(2)(b) inserted (1.4.2002) by 2000 c. 38, s. 260, **Sch. 29 para. 9(1)(3)(b)(ii)**; S.I. 2002/658, art. 2(2), **Sch. Pt. 2**
- F58** Words in s. 132(2)(c) inserted (1.4.2002) by 2000 c. 38, s. 260, **Sch. 29 para. 9(1)(3)(c)**; S.I. 2002/658, art. 2(2), **Sch. Pt. 2**

**Modifications etc. (not altering text)**

- C21** S. 132 excluded (23.6.1999) by S.I. 1999/1736, **art. 8(1)(b)(2)(b)**

**133 Review of examinations.**

- (1) On the application of a person who has <sup>F59</sup>undergone a relevant examination, or a part of such an examination]—
- (a) the magistrates’ court acting for the petty sessions area in which he resides, or
- (b) in Scotland, the sheriff within whose jurisdiction he resides,
- may determine whether <sup>F60</sup>the examination or part was properly conducted]
- (2) If it appears to the court or sheriff <sup>F61</sup>the examination or part was not properly]conducted, the court or sheriff may order that any fee payable by the applicant in respect of <sup>F62</sup>the examination or part]shall not be paid or, if it has been paid, shall be repaid.
- (3) No appeal shall lie under section 131 of this Act in respect of any matter in respect of which an application may be made to a magistrates’ court or a sheriff under subsection (1) above.
- <sup>F63</sup>(4) In this section “a relevant examination” means—
- (a) an examination of ability to give instruction in the driving of motor cars,
- (b) a test of continued ability and fitness to give instruction in the driving of motor cars (or appropriate motor cars), or
- (c) an emergency control assessment.]

**Textual Amendments**

- F59** Words in s. 133(1) substituted (1.4.2002) by 2000 c. 38, s. 260, **Sch. 29 para. 11(1)(2)(a)**; S.I. 2002/658, art. 2(2), **Sch. Pt. 2** (with art. 3(3))
- F60** Words in s. 133(1) substituted (1.4.2002) by 2000 c. 38, s. 260, **Sch. 29 para. 11(1)(2)(b)**; S.I. 2002/658, art. 2(2), **Sch. Pt. 2** (with art. 3(3))
- F61** Words in s. 133(2) substituted (1.4.2002) by 2000 c. 38, s. 260, **Sch. 29 para. 11(1)(3)(a)**; S.I. 2002/658, art. 2(2), **Sch. Pt. 2** (with art. 3(3))
- F62** Words in s. 133(2) substituted (1.4.2002) by 2000 c. 38, s. 260, **Sch. 29 para. 11(1)(3)(b)**; S.I. 2002/658, art. 2(2), **Sch. Pt. 2** (with art. 3(3))
- F63** S. 133(4) inserted (1.4.2002) by 2000 c. 38, s. 260, **Sch. 29 para. 11(1)(4)**; S.I. 2002/658, art. 2(2), **Sch. Pt. 2** (with art. 3(3))

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#### **Modifications etc. (not altering text)**

**C22** S. 133 excluded (23.6.1999) by S.I. 1999/1736, art. 8(1)(b)(2)(b)

*[<sup>F64</sup> Disabled persons: emergency control certificates, etc]*

#### **Textual Amendments**

**F64** Ss. 133A, 133B and cross-heading inserted (9.9.1996) by 1993 c. 31, s.3; S.I. 1996/1980, art. 2

#### **[<sup>F65</sup>133A Assessment of disabled person's ability to control a motor car in an emergency.**

- (1) This section applies to any person who, by or under any provision of this Part of this Act,—
- (a) is authorised to apply to undergo an emergency control assessment, or
  - (b) is required by the Registrar to submit himself for an emergency control assessment.

- (2) An emergency control assessment is an assessment of whether the person being assessed would be able either—
- (a) to take control of a motor car of a class covered by his disabled person's limited driving licence without any modifications, or
  - (b) to take control of a motor car of a class covered by his disabled person's limited driving licence only with appropriate modifications of such a motor car,

if an emergency arose while he was giving, in such a motor car, instruction in the driving of an appropriate motor car.

- (3) Where a person is authorised to apply to undergo an emergency control assessment, for the application to be duly made, it must be made to the Secretary of State and must include—
- (a) a declaration by the person making the application, in such form as the Secretary of State may require, stating every relevant disability or prospective disability from which the person is suffering or has at any time (or, if a period is prescribed by regulations, has during that period) suffered; and
  - (b) such other particulars as the Secretary of State may require.
- (4) Where a person is required to submit himself for an emergency control assessment he must furnish to the Secretary of State such particulars as the Secretary of State may require.

[ Regulations may require a person who applies to undergo an emergency control  
<sup>F66</sup>(4A) assessment (or a part of such an assessment), or is required to submit himself for such an assessment, to pay a fee to the Secretary of State.]

- (5) An emergency control assessment—
- (a) shall be conducted by a person appointed by the Secretary of State (in this section referred to as “the assessor”); and
  - (b) shall consist of such practical tests and other means of assessment as the Secretary of State may determine.

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- (6) On completing an emergency control assessment of a person, the assessor shall grant him an emergency control certificate if he is satisfied either—
- (a) that, in the circumstances mentioned in subsection (2) above, that person would be able to take control of a motor car of a class covered by his disabled person's limited driving licence without any modifications, or
  - (b) that, in the circumstances mentioned in subsection (2) above, that person would be able to take control of a motor car of a class covered by his disabled person's limited driving licence only with appropriate modifications of such a motor car;
- but if the assessor is not so satisfied, he shall refuse to grant a certificate to that person.
- (7) An emergency control certificate granted to any person—
- (a) shall specify the class of motor car covered by his disabled person's limited driving licence in relation to which the assessor is satisfied as mentioned in subsection (6)(a) or (b) above, specifying, in a case falling within paragraph (b) the modifications that are appropriate; and
  - (b) may include a recommendation that that person should undergo a further emergency control assessment after the end of such period as is specified in the certificate;
- and shall otherwise be in such form as the Secretary of State may determine.
- (8) Different modifications for different classes of motor car may be specified under subsection (7)(a) above.
- (9) The assessor who has assessed any person under this section—
- (a) if he grants an emergency control certificate, shall—
    - (i) give or send the certificate to that person, and
    - (ii) send a copy of the certificate to the Registrar; and
  - (b) if he refuses to grant such a certificate, shall—
    - (i) give notice in writing to that person of his decision and of the reasons for it, and
    - (ii) send a copy of the notice to the Registrar.]

#### Textual Amendments

**F65** Ss. 133A, 133B and cross-heading inserted (9.9.1996) by 1993 c. 31, s. 3; S.I. 1996/1980, art. 2

**F66** S. 133A(4A) inserted (1.4.2002) by 2000 c. 38, s. 260, Sch. 29 para. 10; S.I. 2002/658, art. 2(2), Sch. Pt. 2

#### Modifications etc. (not altering text)

**C23** S. 133A excluded (23.6.1999) by S.I. 1999/1736, art. 8(1)(b)(2)(b)

#### [<sup>F67</sup> 133B Further assessments.

- (1) A person who has undergone an emergency control assessment may not apply to undergo a further assessment until after the end of—
- (a) the period of six months beginning with the date of his most recent previous assessment, or
  - (b) such other period as may be prescribed by regulations,



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unless, by virtue of section 125B(6)(a) of this Act or subsection (2) below, he is required by the Registrar to submit himself for a further assessment.

- (2) A person whose name is not on the register but who holds a current emergency control certificate shall, if at any time required to do so by the Registrar, submit himself for a further emergency control assessment on the day (within such period as may be prescribed by regulations) and at the place specified by the Registrar.
- (3) In considering whether to exercise, in respect of any person, his power under subsection (2) above, the Registrar shall have regard to any recommendation included in that person's current emergency control certificate as to the period after the end of which he should undergo a further emergency control assessment.
- (4) A person who—
  - (a) holds a current emergency control certificate, but
  - (b) wishes to undergo a further emergency control assessment with a view to establishing his ability to control any class of motor car not specified in his current certificate,
 may, with the consent of the Registrar and subject to subsection (1) above, apply to undergo a further assessment; but a person applying to undergo a further assessment under this subsection shall not be required to make the declaration required by section 133A(3)(a) of this Act.
- (5) An application made under subsection (4) above for the consent of the Registrar shall be made in such manner and be accompanied by such particulars as the Registrar may require.
- (6) If, as a result of undergoing a further emergency control assessment, a person is granted a fresh emergency control certificate the grant of that certificate shall, with effect from the date on which it is notified as taking effect, revoke the previous certificate.
- (7) If, in the case of an emergency control assessment conducted in respect of a person who holds a current emergency control certificate, the assessor is not satisfied as to either of the matters specified in paragraphs (a) and (b) of section 133A(6), he shall revoke the certificate.
- (8) Where a person's emergency control certificate is revoked under subsection (7) above the assessor shall—
  - (a) serve notice in writing on him specifying—
    - (i) the grounds for the revocation, and
    - (ii) the date, not being earlier than the date of service of the notice, on which the revocation is to take effect, and
  - (b) send a copy of the notice to the Registrar.
- (9) In this section “assessor” has the same meaning as in section 133A of this Act.]

#### Textual Amendments

**F67** Ss. 133A, 133B and cross-heading inserted (9.9.1996) by 1993 c. 31, s. 3; S.I. 1996/1980, art. 2

#### Modifications etc. (not altering text)

**C24** S. 133B excluded (23.6.1999) by S.I. 1999/1736, art. 8(1)(b)(2)(b)



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[<sup>F68</sup> **133C Duty to disclose further disability.**

- (1) This section applies to—
  - (a) registered disabled instructors, and
  - (b) persons who hold licences under section 129 of this Act granted by virtue of subsection (2)(b) of that section.
- (2) If at any time a person to whom this section applies becomes aware—
  - (a) that he is suffering from a relevant or prospective disability which he has not previously disclosed to the Secretary of State under section 125A(3) or 133A(3) or (4) of this Act, or
  - (b) that a relevant or prospective disability from which he has at any time suffered (and which has been previously so disclosed) has become more acute since his current emergency control certificate was granted,he must forthwith notify the Registrar in writing of the nature and extent of his disability.
- (3) Subsection (2) above does not require a person to notify the Registrar if—
  - (a) the disability is one from which he has not previously suffered, and
  - (b) he has reasonable grounds for believing that the duration of the disability will not extend beyond the period of three months beginning with the date on which he first becomes aware that he suffers from it.
- (4) A person who fails without reasonable excuse to notify the Registrar as required by subsection (2) above is guilty of an offence.]

**Textual Amendments**

**F68** S. 133C inserted (9.9.1996) by 1993 c. 31, s.4; S.I. 1996/1980, art. 2

**Modifications etc. (not altering text)**

**C25** S.133C excluded (23.6.1999) by S.I. 1999/1736, art. 8(1)(b)(2)(b)

[<sup>F69</sup> **133D Offences relating to giving by disabled person of paid driving instruction.**

- (1) This section applies to—
  - (a) registered disabled instructors, and
  - (b) persons who hold licences under section 129 of this Act granted by virtue of subsection (2)(b) of that section.
- (2) No person to whom this section applies shall give paid instruction in the driving of a motor car unless he is the holder of a current emergency control certificate.
- (3) No person to whom this section applies shall give, in any unauthorised motor car, paid instruction in the driving of a motor car.
- (4) Where instruction is given in contravention of this section—
  - (a) the person by whom it is given, and
  - (b) if that person is employed by another to give that instruction, that other, as well as that person,is guilty of an offence.

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- (5) In subsection (3) above “unauthorised motor car”, in relation to any person, means a motor car other than one which falls within the class of motor car specified in his current emergency control certificate and, where modifications are specified in that certificate, is modified in accordance with the specification.]

#### Textual Amendments

**F69** S. 133D inserted (9.9.1996) by 1993 c. 31, s. 5 ; S.I. 1996/1980, art. 2

#### Modifications etc. (not altering text)

**C26** S. 133D excluded (23.6.1999) by S.I. 1999/1736, art. 8(1)(b)(2)(b)

### General and supplemental

#### 134 Power to alter conditions for entry or retention in, and removal from, register and for grant or revocation of licences.

Regulations may—

- (a) alter or add to the conditions as to which the Registrar is required by this Part of this Act to be satisfied for the entry of a name in the register, the retention of a name in the register, the removal of a name from the register, the grant of a licence and the revocation of a licence, or omit any of those conditions,
- (b) alter the period at the expiration of which a person’s name which is entered or retained in the register after the coming into force of the regulation must, unless retained or further retained, be removed from the register.

#### Modifications etc. (not altering text)

**C27** S. 134 excluded (23.6.1999) by S.I. 1999/1736, art. 8(1)(b)(2)(b)

#### 135 Power to prescribe form of certificate of registration, etc.

- (1) Regulations may prescribe all or any of the following—
  - (a) a form of certificate for issue to persons whose names are in the register as evidence of their names’ being in the register,
  - (b) a form of badge for use by such persons, and
  - (c) an official title for such use.
- (2) If a person whose name is not in the register—
  - (a) takes or uses a title prescribed under this section, or
  - (b) wears or displays a badge or certificate so prescribed, or
  - (c) takes or uses any name, title, addition or description implying that his name is in the register,

he is guilty of an offence unless he proves that he did not know, and had no reasonable cause to believe, that his name was not in the register at the material time.
- (3) If a person carrying on business in the provision of instruction in the driving of motor vehicles—

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- (a) uses a title or description so prescribed in relation to any person employed by him whose name is not in the register, or
- (b) issues any advertisement or invitation calculated to mislead with respect to the extent to which persons whose names are in the register are employed by him, he is guilty of an offence unless he proves that he did not know, and had no reasonable cause to believe, that the name or names in question were not in the register at the material time.

**Modifications etc. (not altering text)**

**C28** S. 135 excluded (23.6.1999) by S.I. 1999/1736, art. 8(1)(b)(2)(b)

### 136 Surrender of certificates and licences.

Where—

- (a) the name of a person to whom a certificate prescribed under section 135 of this Act has been issued is removed from the register in pursuance of this Part of this Act, or
- (b) a licence granted under this Part of this Act to a person expires or is revoked, that person must, if so required by the Registrar by notice in writing, surrender the certificate or licence, as the case may be, to the Registrar within the period of fourteen days beginning with that on which the notice is given and, if he fails to do so, he is guilty of an offence.

**Modifications etc. (not altering text)**

**C29** S. 136 excluded (23.6.1999) by S.I. 1999/1736, art. 8(1)(b)(2)(b)

### 137 Production of certificates and licences to constables and authorised persons.

- (1) A person to whom a certificate prescribed under section 135 of this Act is issued, or to whom a licence under this Part of this Act is granted, must, on being so required by a constable or any person authorised in writing by the Secretary of State in that behalf, produce the certificate or licence for examination.
- (2) Where—
  - (a) the name of a person is removed from the register, or
  - (b) a licence granted under this Part of this Act to a person expires or is revoked, then, if that person fails to satisfy an obligation imposed on him by section 136 of this Act, a constable or a person authorised in writing by the Secretary of State in that behalf may require him to produce any such certificate issued to him or the licence, and upon its being produced may seize it and deliver it to the Registrar.
- (3) A person who is required under subsection (1) or (2) above to produce a document and fails to do so is, subject to subsection (4) below, guilty of an offence.
- (4) In proceedings against any person for an offence under subsection (3) above, it shall be a defence for him to show that—
  - (a) within seven days beginning with the day following that on which the production of the document was so required, it was produced—

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- (i) where the requirement was made by a constable, at a police station specified at the time the production was required by the person required to produce the document,
- (ii) where the requirement was made by a person other than a constable, at a place specified at that time by that person, or
- (b) the document was produced at that police station or, as the case may be, place as soon as was reasonably practicable, or
- (c) it was not reasonably practicable for it to be produced at that police station or, as the case may be, place before the day on which the proceedings were commenced,

and for the purposes of this subsection the laying of the information or, in Scotland, the service of the complaint on the accused shall be treated as the commencement of the proceedings.

**Modifications etc. (not altering text)**

**C30** S. 137 excluded (23.6.1999) by [S.I. 1999/1736](#), [art. 8\(1\)\(b\)\(2\)\(b\)](#)

**138 Offences by corporations.**

Where a body corporate is guilty of an offence under this Part of this Act and the offence is proved to have been committed with the consent or connivance of, or to be attributable to neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, or a person who was purporting to act in any such capacity, he, as well as the body corporate, is guilty of that offence and liable to be proceeded against and punished accordingly.

**Modifications etc. (not altering text)**

**C31** S. 138 excluded (23.6.1999) by [S.I. 1999/1736](#), [art. 8\(1\)\(b\)\(2\)\(b\)](#)

**C32** S. 138 modified (16.8.2006) by [The Dover Harbour Revision Order 2006 \(S.I. 2006/2167\)](#), [art. 27](#)

**139 Service of notices.**

- (1) A notice authorised or required to be given by this Part of this Act to a person may be given by delivering it to him, or by leaving it at his proper address, or by sending it to him by post.
- (2) For the purposes of this section and of section 7 of the Interpretation Act 1978 <sup>M6</sup> in its application to this section, the proper address of a person shall be, in the case of a person whose name is included in the register, his address on the register, and in any other case, his usual or last known address.

**Modifications etc. (not altering text)**

**C33** S. 139 excluded (23.6.1999) by [S.I. 1999/1736](#), [art. 8\(1\)\(b\)\(2\)\(b\)](#)

**C34** S. 139 modified (16.8.2006) by [The Dover Harbour Revision Order 2006 \(S.I. 2006/2167\)](#), [art. 27](#)

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### Marginal Citations

M6 1978 c. 30.

## 140 Receipts.

Any sums received on account of fees payable by virtue of any provision of this Part of this Act shall be paid into the Consolidated Fund.

### Modifications etc. (not altering text)

C35 S. 140 excluded (23.6.1999) by S.I. 1999/1736, art. 8(1)(b)(2)(b)

## 141 Regulations.

The Secretary of State may make regulations for any purpose for which provision is by this Part of this Act authorised to be made by regulations, and in this Part of this Act “regulations” means regulations made under this section.

### Subordinate Legislation Made

P1 S. 141: s. 125(3)(with ss. 127(2), 132(1)(a)(2)(b), 134 and 141) power exercised by S.I.1991/1129

P2 S. 141: power previously exercised by S.I. 1989/1373, 1989/2057, 1990/1113.

### Modifications etc. (not altering text)

C36 S. 141 excluded (23.6.1999) by S.I. 1999/1736, art. 8(1)(b)(2)(b)

## [<sup>F70</sup>141A Meaning of “motor car”.

(1) Notwithstanding section 185(1) of this Act, in this Part of this Act “motor car” means a motor vehicle (other than an invalid carriage or motor cycle)—

- (a) which is not constructed or adapted to carry more than nine persons inclusive of the driver, and
- (b) which has a maximum gross weight not exceeding 3.5 tonnes.

(2) In subsection (1) above “maximum gross weight” has the same meaning as in Part III of this Act.]

### Textual Amendments

F70 S. 141A inserted (23.7.1996 for specified purposes and otherwise 1.1.1997) by S.I. 1996/1974, reg. 2 Sch. 1 para. 29

### Modifications etc. (not altering text)

C37 S. 141A excluded (23.6.1999) by S.I. 1999/1736, art. 8(1)(b)(2)(b)

*Status: Point in time view as at 30/03/2004. This version of this part contains provisions that are not valid for this point in time.*

*Changes to legislation: Road Traffic Act 1988, Part V is up to date with all changes known to be in force on or before 11 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## 142 Index to Part V.

The expressions listed in the left-hand column below are respectively defined or (as the case may be) fall to be construed in accordance with the provisions of this Part of this Act listed in the right-hand column in relation to those expressions.

<i>Expression</i>	<i>Relevant provision</i>
[ <sup>F71</sup> Appropriate motor car	Section 125A(8)]
[ <sup>F72</sup> “Community licence” and “counterpart” in relation thereto	Section 125(10)]
Current licence	Section 123(7)
[ <sup>F71</sup> Disability, prospective disability and relevant disability	Section 125A(8)]
[ <sup>F71</sup> Disabled person’s limited driving licence	Section 125A(8)]
[ <sup>F71</sup> Emergency control assessment and emergency control certificate	Section 125A(8)]
[ <sup>F71</sup> Paid instruction	Section 123(8)]
[ <sup>F71</sup> Provisional licence	Section 123(8)]
The register	Section 123
[ <sup>F71</sup> Registered disabled instructor	Section 125A(8)]
The Registrar	Section 125 (2)
Regulations	Section 141

### Textual Amendments

**F71** Entries in table in s. 142 inserted (9.9.1996) by 1993 c. 31, s. 6, **Sch. para. 8**; S.I. 1996/1980, **art. 2**

**F72** Entry in table in s. 142 inserted (1.4.1999) by S.I. 1999/357, **reg. 2(5)**

### Modifications etc. (not altering text)

**C38** S. 142 excluded (23.6.1999) by S.I. 1999/1736, **art. 8(1)(b)(2)(b)**

**Status:**

Point in time view as at 30/03/2004. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:**

Road Traffic Act 1988, Part V is up to date with all changes known to be in force on or before 11 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.