
STATUTORY INSTRUMENTS

1999 No. 2864

The Motor Vehicles (Driving Licences) Regulations 1999

PART III

TESTS OF COMPETENCE TO DRIVE

Requirements at tests

Further requirements at tests

38.—^{F1}(ZA1) A person submitting to a safe road use test (“the candidate”) to be conducted by an appointed person shall be accompanied by a person who is employed by a school, college or other body which has responsibility for the candidate or that candidate’s undertaking of that test.]

^{F2}(1) Subject to paragraph (2), a person submitting to a theory test, manoeuvres test, ^{F3}large vehicle off road manoeuvres test,] practical test or unitary test must satisfy the residence requirement in section 97A(1)(d) of the Traffic Act as if that person were making an application under section 97, except that the requirement shall be met at the time of attending the test.]

(2) Paragraph (1) shall not apply in the case of a person who submits himself for an appropriate driving test pursuant to section 36 of the Offenders Act or for any part of such a test.

(3) A person submitting himself for a theory test shall—

(a) before the test commences—

(i) except in a case to which paragraph (7) applies, produce to the person conducting the test an appropriate licence authorising him to drive a motor vehicle of a class included in the category or sub-category in respect of which the test is to be taken^{F4} ...,

(ii) except where he has produced an appropriate licence containing his photograph, satisfy the person conducting the test as to his identity in accordance with paragraph (6),^{F5} ...

(iii) sign a record of his attendance at the test;

^{F6}(*ia*) where the test is a theory test within the meaning of regulation 3A(1)(ab), produce a valid qualification award certificate or a valid relevant qualification certificate, as appropriate; and]

(b) during the test comply with all reasonable instructions given by the invigilator for the purpose of ensuring the proper and orderly conduct of the test.

^{F7}(4) Subject to paragraph (4A), a person submitting to a manoeuvres test ^{F8}, large vehicle off road manoeuvres test] or a practical test must, before the test commences, produce to the person conducting the test—

(a) in the case of a test on a motor vehicle of a class included in any category other than category A, a valid standard theory test pass or a valid large vehicle theory test pass certificate showing that the person submitting to the test has passed the theory test

prescribed in respect of the same category or a valid certificate corresponding to such a certificate furnished under the law of Northern Ireland; or

- (b) in the case of a test on a motor vehicle of a class included in category A, a valid standard theory test pass certificate showing that the person submitting to the test has passed the theory test prescribed in respect of category A or category AM or a valid certificate corresponding to either such certificate furnished under the law of Northern Ireland.]

[^{F9}(4A) Paragraph (4) does not apply in a case where—

- (a) a person submitting to a manoeuvres test [^{F10}, large vehicle off road manoeuvres test] or a practical test is exempt from the requirement to pass a theory test by virtue of regulation 42; or
- (b) by virtue of regulation 40(4) no theory test is prescribed for the class of vehicle on which a manoeuvres test [^{F11}, large vehicle off road manoeuvres test] or a practical test (as the case may be) is to be taken]

(5) A person submitting himself for a [^{F12}manoeuvres test, [^{F13}large vehicle off road manoeuvres test,] practical test] or unitary test shall, before the test commences—

- (a) produce to the person conducting the test an appropriate licence authorising him to drive a motor vehicle of the class on which the test is to be taken^{F14} ...,
- (b) except where he has produced an appropriate licence containing his photograph, satisfy the person conducting the test as to his identity in accordance with paragraph (6), and
- [^{F15}(c) sign, on the Driving Test Report Form produced to him by the person conducting the test, a declaration to the effect that—
- (i) there is in force, in relation to the use of the vehicle provided for the test, a policy of insurance which complies with the requirements of Part VI of the Traffic Act, and
- (ii) he satisfies the residence requirement as described in paragraph (1).]

[^{F16}(5A) A person submitting himself for a theory test [^{F17}manoeuvres test], [^{F18}large vehicle off road manoeuvres test,] practical test or unitary test who produces a licence which fails to satisfy the person conducting the test, after an examination or otherwise, that it is an appropriate licence as required under paragraph (3)(a)(i) or (5)(a) must surrender the licence forthwith to the person conducting the test.]

[^{F19}(6) For the purposes of this regulation, a person conducting a test may be satisfied as to a person's identity –

- (a) from a valid passport [^{F20} or a valid identity card issued under the Identity Cards Act 2006], or
- (b) where the person conducting the test is a person to whom regulation 23(1)(b) or regulation 24(1)(b) applies, from such evidence as that person considers appropriate.]

(7) In the case of an applicant who is a full-time member of the armed forces of the Crown (to whom the provisions of regulation 11(1) do not apply), he shall before the commencement of a theory test or, as the case may be, a [^{F21}manoeuvres test, [^{F22}large vehicle off road manoeuvres test,] practical test] or unitary test prescribed in respect of a category specified in column (1) of the table at the end of regulation 11 satisfy the examiner that he has passed the test prescribed in respect of the category specified in column (2) of the table in relation to the first category.

(8) A person submitting himself for a [^{F23}manoeuvres test or] practical test for a licence authorising the driving of a motor vehicle of a class included in category [^{F24}AM or A] shall before the test commences, unless he is exempt from the requirement imposed by section 89(2A) of the Traffic Act, produce to the examiner a valid certificate furnished under regulation 68(1) [^{F25}, or a valid certificate corresponding to such a certificate furnished under the law of Northern Ireland.]

[^{F26}[^{F27}(8A) Subject to paragraph (8B), before commencement of a practical test in relation to a vehicle of a class included in category AM or A the person submitting to the test shall produce to the person conducting the test—

- (a) a module 1 pass certificate which—
 - (i) is valid;
 - (ii) is in respect of the same category or sub-category of vehicle as that in which the practical test is to be taken; and
 - (iii) save in a case where sub-paragraph (a) of paragraph (4A) applies, records as the date of the theory test the same date as is recorded for that test in the valid standard theory test pass certificate which is produced in accordance with paragraph (4); or
- (b) a certificate, furnished under the law of Northern Ireland, indicating that the person submitting to the practical test has passed that part of a Northern Ireland test corresponding to the manoeuvres test, which—
 - (i) is valid; and
 - (ii) is in respect of the same category or sub-category of vehicle as that in which the practical test is to be taken.]

(8B) In the case of a person who is exempt from the requirement to pass a theory test by virtue of regulation 42(1), the certificate produced in accordance with paragraph (8A) shall be dated no earlier than six months before the date on which it is produced.]

(9) A person submitting himself for a [^{F28}manoeuvres test, [^{F29}large vehicle off road manoeuvres test,] practical test] or a unitary test shall, during the test—

- (a) except where the test is for a licence authorising him to drive a motor vehicle of a class included in [^{F30}category AM, A, G, H or K], allow to travel in the vehicle—
 - (i) the person authorised to conduct the test; and
 - (ii) any person authorised by the Secretary of State to attend the test for the purpose of supervising it or otherwise;
- (b) where the test is for a licence authorising him to drive a motor vehicle of a class included in [^{F30}category AM, A, G, H or K], allow the attendance of—
 - (i) the person authorised to conduct the test; and
 - (ii) any person authorised by the Secretary of State for the purpose of supervising the test or otherwise.

(10) In this regulation and regulation 39—

“appropriate licence” means a licence, other than an excepted provisional licence, which—

- (a) is valid at the date of the test,
- (b) bears the signature of the person who has submitted himself for the test, and
- (c) is either—
 - (i) a provisional licence authorising the person submitting himself for the test to drive motor vehicles of the same class as the vehicle which he has provided for the test, or
 - (ii) a full licence which by virtue of section 98 of the Traffic Act and regulation 19, authorises that person to drive motor vehicles of that class subject to the same conditions as if he were so authorised by a provisional licence, or
 - (iii) a Northern Ireland licence corresponding to either of those licences, or

- (iv) a Community licence which, by virtue of section 99A of the Traffic Act and regulation 19, authorises that person to drive motor vehicles of that class subject to the same conditions as if he were so authorised by a provisional licence ^{F31}, or
- (v) a Community licence, which by virtue of section 37(4) of the Offenders Act, authorises that person to drive motor vehicles of that class subject to the same conditions as if the person were so authorised by a provisional licence;]

“excepted provisional licence” means a licence which—

- (a) was in force at a time before 1st January 1997, and
- (b) is issued as a provisional licence in respect of motor vehicles of a class included (by virtue of these Regulations) in category C+E or D+E or sub-categories C1 and D1 (not for hire or reward),

but does not include a licence which was granted to a full-time member of the armed forces of the Crown to whom the provisions of regulation 11(1) do not apply by virtue of paragraph (2) of that regulation.

Textual Amendments

- F1** Reg. 38(ZA1) inserted (1.5.2010) by [The Motor Vehicles \(Driving Licences\) \(Amendment\) Regulations 2010 \(S.I. 2010/1203\)](#), regs. 1(2), **16(a)**
- F2** Reg. 38(1) substituted (29.12.2014) by [The Road Traffic Act 1988 and Motor Vehicles \(Driving Licences\) \(Amendment\) Regulations 2014 \(S.I. 2014/3190\)](#), regs. 1, **7**
- F3** Words in reg. 38(1) inserted (15.11.2021 at 1.00 a.m.) by [The Motor Vehicles \(Driving Licences\) \(Amendment\) \(No. 3\) Regulations 2021 \(S.I. 2021/1154\)](#), regs. 1(2), **14(a)**
- F4** Words in reg. 38(3)(a)(i) omitted (8.6.2015) by virtue of [The Road Safety Act 2006 \(Consequential Amendments\) Order 2015 \(S.I. 2015/583\)](#), art. 1(1), **Sch. 2 para. 11(c)(i)**
- F5** Word in reg. 38(3)(a)(ii) omitted (1.5.2010) by virtue of [The Motor Vehicles \(Driving Licences\) \(Amendment\) Regulations 2010 \(S.I. 2010/1203\)](#), regs. 1(2), **16(b)(i)**
- F6** Reg. 38(3)(a)(ia) inserted (1.5.2010) by [The Motor Vehicles \(Driving Licences\) \(Amendment\) Regulations 2010 \(S.I. 2010/1203\)](#), regs. 1(2), **16(b)(ii)**
- F7** Reg. 38(4) substituted (19.1.2013) by [The Motor Vehicles \(Driving Licences\) \(Amendment\) Regulations 2012 \(S.I. 2012/977\)](#), reg. 1(2), **Sch. 3 para. 21(a)**
- F8** Words in reg. 38(4) inserted (15.11.2021 at 1.00 a.m.) by [The Motor Vehicles \(Driving Licences\) \(Amendment\) \(No. 3\) Regulations 2021 \(S.I. 2021/1154\)](#), regs. 1(2), **14(b)**
- F9** Reg. 38(4A) inserted (19.1.2013) by [The Motor Vehicles \(Driving Licences\) \(Amendment\) Regulations 2012 \(S.I. 2012/977\)](#), reg. 1(2), **Sch. 3 para. 21(b)**
- F10** Words in reg. 38(4A)(a) inserted (15.11.2021 at 1.00 a.m.) by [The Motor Vehicles \(Driving Licences\) \(Amendment\) \(No. 3\) Regulations 2021 \(S.I. 2021/1154\)](#), regs. 1(2), **14(c)(i)**
- F11** Words in reg. 38(4A)(b) inserted (15.11.2021 at 1.00 a.m.) by [The Motor Vehicles \(Driving Licences\) \(Amendment\) \(No. 3\) Regulations 2021 \(S.I. 2021/1154\)](#), regs. 1(2), **14(c)(ii)**
- F12** Words in reg. 38(5) substituted (30.3.2009) by [The Motor Vehicles \(Driving Licences\) \(Amendment\) Regulations 2009 \(S.I. 2009/788\)](#), regs. 1(2), **16(c)** (with reg. 33)
- F13** Words in reg. 38(5) inserted (15.11.2021 at 1.00 a.m.) by [The Motor Vehicles \(Driving Licences\) \(Amendment\) \(No. 3\) Regulations 2021 \(S.I. 2021/1154\)](#), regs. 1(2), **14(d)**
- F14** Words in reg. 38(5)(a) omitted (8.6.2015) by virtue of [The Road Safety Act 2006 \(Consequential Amendments\) Order 2015 \(S.I. 2015/583\)](#), art. 1(1), **Sch. 2 para. 11(c)(ii)**
- F15** Reg. 38(5)(c) substituted (1.11.2005) by [The Motor Vehicles \(Driving Licences\) \(Amendment\) \(No 2\) Regulations 2005 \(S.I. 2005/2717\)](#), regs. 1, **8**
- F16** Reg. 38(5A) inserted (2.4.2007) by [The Motor Vehicles \(Driving Licences\) \(Amendment\) Regulations 2007 \(S.I. 2007/698\)](#), regs. 1(1), **8**

- F17** Words in reg. 38(5A) inserted (30.3.2009) by The Motor Vehicles (Driving Licences) (Amendment) Regulations 2009 (S.I. 2009/788), regs. 1(2), **16(d)** (with reg. 33)
- F18** Words in reg. 38(5A) inserted (15.11.2021 at 1.00 a.m.) by The Motor Vehicles (Driving Licences) (Amendment) (No. 3) Regulations 2021 (S.I. 2021/1154), regs. 1(2), **14(e)**
- F19** Reg. 38(6) substituted (1.11.2005) by The Motor Vehicles (Driving Licences) (Amendment) (No 2) Regulations 2005 (S.I. 2005/2717), regs. 1, **9**
- F20** Words in reg. 38(6)(a) inserted (27.4.2010) by The Vehicles Regulations (Amendment) Order 2010 (S.I. 2010/1111), arts. 1(1), **2**
- F21** Words in reg. 38(7) substituted (30.3.2009) by The Motor Vehicles (Driving Licences) (Amendment) Regulations 2009 (S.I. 2009/788), regs. 1(2), **16(e)** (with reg. 33)
- F22** Words in reg. 38(7) inserted (15.11.2021 at 1.00 a.m.) by The Motor Vehicles (Driving Licences) (Amendment) (No. 3) Regulations 2021 (S.I. 2021/1154), regs. 1(2), **14(f)**
- F23** Words in reg. 38(8) inserted (30.3.2009) by The Motor Vehicles (Driving Licences) (Amendment) Regulations 2009 (S.I. 2009/788), regs. 1(2), **16(f)** (with reg. 33)
- F24** Words in reg. 38(8)(8A) substituted (19.1.2013) by The Motor Vehicles (Driving Licences) (Amendment) Regulations 2012 (S.I. 2012/977), reg. 1(2), **Sch. 3 para. 21(c)**
- F25** Words in reg. 38(8) inserted (31.12.2015) by The Motor Vehicles (Driving Licences) (Amendment) (No. 4) Regulations 2015 (S.I. 2015/1797), regs. 1, **4(a)**
- F26** Reg. 38(8A) substituted (31.12.2015) by The Motor Vehicles (Driving Licences) (Amendment) (No. 4) Regulations 2015 (S.I. 2015/1797), regs. 1, **4(b)**
- F27** Reg. 38(8A)(8B) inserted (30.3.2009) by The Motor Vehicles (Driving Licences) (Amendment) Regulations 2009 (S.I. 2009/788), regs. 1(2), **16(g)** (with reg. 33)
- F28** Words in reg. 38(9) substituted (30.3.2009) by The Motor Vehicles (Driving Licences) (Amendment) Regulations 2009 (S.I. 2009/788), regs. 1(2), **16(h)** (with reg. 33)
- F29** Words in reg. 38(9) inserted (15.11.2021 at 1.00 a.m.) by The Motor Vehicles (Driving Licences) (Amendment) (No. 3) Regulations 2021 (S.I. 2021/1154), regs. 1(2), **14(g)**
- F30** Words in reg. 38(9)(a)(b) substituted (19.1.2013) by The Motor Vehicles (Driving Licences) (Amendment) Regulations 2012 (S.I. 2012/977), reg. 1(2), **Sch. 3 para. 21(d)**
- F31** Words in reg. 38(10) added (4.1.2016) by The Road Traffic Offenders Act 1988 and Motor Vehicles (Driving Licences) (Amendment) Regulations 2015 (S.I. 2015/2004), regs. 1, **3(2)**

Changes to legislation:

There are currently no known outstanding effects for the The Motor Vehicles (Driving Licences) Regulations 1999, Section 38.