



# 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 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 is a reference to a licence which has not expired and has not been cancelled, revoked or suspended.
  - (8) In this section “provisional licence” has the same meaning as in Part III of this Act.

## **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—
  - “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.
- (3) In the application of subsection (2) above to the metropolitan police, the reference to a civilian employed by a police authority is to be read as a reference to a civilian employed under the Commissioner of Police of the Metropolis or the Receiver for the Metropolitan Police District.

## *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 fitness to drive and a practical test of ability and fitness to instruct) as may be so prescribed,
  - (b) he is the holder of a current licence of one of the following kinds—
    - (i) a licence to drive a motor car granted under Part III of this Act (not being a provisional licence), and
    - (ii) a licence to drive a motor car (not being a licence corresponding to a provisional licence) granted under the law in force in Northern Ireland,
  - (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
    - (ii) a current foreign licence, that is to say, a document issued under the law of a country outside the United Kingdom authorising the holder to drive a motor car in that country,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 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.

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- (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, undergo the test prescribed by regulations of continued ability and fitness to give instruction in the driving of motor cars.
- (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 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.
- (9) In this section “provisional licence” has the same meaning as in Part III of this Act.

## **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.

## **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 following conditions are fulfilled in his case.
- (3) Those 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 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.
- (4) The retention of a person's name under this section shall be subject to the condition mentioned in section 125(5) 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.
- (8) A decision to refuse an application shall 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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## **128 Removal of names from register**

- (1) The Registrar may remove the name of a person from the register if he is satisfied that—
  - (a) 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
  - (b) in a case where his name has been so retained under that section, at any time since it was last retained,any of the following conditions was fulfilled in his case.
- (2) Those conditions are—
  - (a) that he held neither of the kinds of current licence mentioned in section 125 (3)(b) of this Act,
  - (b) 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,
  - (c) that he refused to undergo a test such as is mentioned in section 125 (5) of this Act,
  - (d) that he failed to pass such a test,
  - (e) 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.
- (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.
- (7) A decision to remove a name from the register shall 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.

## *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 such part of the examination referred to in section 125(3)(a) of this Act as consists of a practical test of ability and fitness to instruct.
- (2) Subject to subsection (3) below, where—
  - (a) a person applies to the Registrar in manner determined by the Secretary of State, accompanied by particulars so determined, and
  - (b) the Registrar is satisfied—
    - (i) that the applicant has passed the other parts of that examination, and
    - (ii) that the conditions set out in section 125(3)(b) to (e) 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 (within the meaning of section 123(1) and (2) of this Act) 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, and shall be granted subject to such conditions, as may be prescribed by regulations.
- (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 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.

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### **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 conditions mentioned in subsection (2) below was fulfilled in his case, or
  - (c) if the licence was granted by mistake or procured by fraud.
- (2) The conditions referred to in subsection (1)(b) above are—
  - (a) that he held neither 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 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.
- (3) Before revoking a licence granted to a person 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 granted under this section, give notice in writing of the decision to the person concerned.
- (6) A decision to revoke a licence granted under this section shall 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.

### *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 Secretary of State 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 Secretary of State 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 Secretary of State 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 he thinks 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.
- (5) Schedule 3 to this Act has effect in relation to an appeal under this section.

#### *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 such instruction, 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 to any part of such an examination which consists of a practical test, or to such a test of continued ability and fitness, to provide a vehicle for the purposes of the test, 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 to pay to the Registrar such fee as may be specified in the regulations in relation to that part, and
  - (c) for requiring a person who desires to submit himself for any part of such an examination to supply the Registrar with such particulars as the Secretary of State may determine.

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### **133 Review of examinations**

- (1) On the application of a person who has submitted himself for any part of an examination of ability to give instruction in the driving of motor cars—
  - (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 that part of the examination was properly conducted in accordance with regulations.
- (2) If it appears to the court or sheriff that that part of the examination was not so conducted, the court or sheriff may order that any fee payable by the applicant in respect of that 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.

#### *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.

### **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—
  - (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.

### **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.

### **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—
    - (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,

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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.

### **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.

### **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 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.

### **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.

### **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.

### **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>
Current licence	Section 123 (7)
The register	Section 123
The Registrar	Section 125 (2)
Regulations	Section 141