
STATUTORY INSTRUMENTS

1998 No. 1074

The Road Traffic (New Drivers) (Northern Ireland) Order 1998

Introductory

Title and commencement

1.—(1) This Order may be cited as the Road Traffic (New Drivers) (Northern Ireland) Order 1998.

(2) This Order shall come into operation on such day as the Head of the Department may by order appoint.

(3) Subject to paragraphs 1 and 8 of Schedule 2, nothing in any provision of this Order applies to a person who becomes a qualified driver before the day on which the provision comes into operation.

Interpretation

2.—(1) Subject to Article 12(1), the Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

“the Department” means the Department of the Environment;

“notice” means notice in writing;

“the Offenders Order” means the Road Traffic Offenders (Northern Ireland) Order 1996;

“the Order of 1981” means the Road Traffic (Northern Ireland) Order 1981;

“probationary period” has the meaning assigned to it by Article 3(1);

“qualified driver” has the meaning assigned to it by Article 3(2);

“the Road Traffic Orders” means the Order of 1981, the Road Traffic (Northern Ireland) Order 1995 and the Offenders Order.

(3) Expressions used in this Order which are also used in Part II of the Order of 1981 shall be construed in the same way as in that Order.

(4) Expressions used in this Order which are also used in the Offenders Order shall be construed in the same way as in that Order.

Probationary period for newly qualified drivers

3.—(1) For the purposes of this Order, a person’s probationary period is, subject to Article 9, the period of 2 years beginning with the day on which he becomes a qualified driver.

(2) For the purposes of this Order, a person becomes a qualified driver on the first occasion on which he passes—

(a) any test of competence to drive mentioned in sub-paragraph (a) or (c) of Article 5(1) of the Order of 1981;

(b) any test of competence to drive conducted under the law of—

- (i) another EEA State;
- (ii) the Isle of Man;
- (iii) any of the Channel Islands; or
- (iv) Gibraltar.

(3) In paragraph (2) “EEA State” means a State which is a contracting party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992, as adjusted by the Protocol signed at Brussels on 17th March 1993.

Revocation of licences and re-testing

Surrender of licences

- 4.—(1) Paragraph (2) applies where—
- (a) a person is the holder of a licence;
 - (b) he is convicted of an offence involving obligatory endorsement;
 - (c) the penalty points to be taken into account under Article 31 of the Offenders Order on that occasion number 6 or more;
 - (d) the court makes an order falling within Article 49(1)(b) of that Order in respect of the offence;
 - (e) the person’s licence shows the date on which he became a qualified driver, or that date has been shown by other evidence in the proceedings; and
 - (f) it appears to the court, in the light of the order and the date so shown, that the offence was committed during the person’s probationary period.
- (2) Where this paragraph applies, the court shall send to the Department—
- (a) a notice containing the particulars required to be endorsed on the counterpart of the person’s licence in accordance with the order referred to in paragraph (1)(d); and
 - (b) on their production to the court, the person’s licence and its counterpart.
- (3) Paragraph (4) applies where—
- (a) a person’s licence and its counterpart have been sent to the fixed penalty clerk under Article 60(7) of the Offenders Order or delivered to the fixed penalty clerk in response to a conditional offer issued under Article 80 of that Order;
 - (b) the offence to which the fixed penalty notice or the conditional offer relates is one involving obligatory endorsement;
 - (c) the fixed penalty clerk endorses the number of penalty points to be attributed to the offence on the counterpart of the licence;
 - (d) the penalty points to be taken into account by the fixed penalty clerk in respect of the offence number 6 or more;
 - (e) the licence shows the date on which the person became a qualified driver; and
 - (f) it appears to the fixed penalty clerk, in the light of the particulars of the offence endorsed on the counterpart of the licence and the date so shown, that the offence was committed during the person’s probationary period.
- (4) Where this paragraph applies, the fixed penalty clerk—
- (a) may not return the licence and its counterpart under Article 63(3) or (4) or 82(1) of the Offenders Order; but

(b) shall send them to the Department.

(5) For the purposes of paragraph (3)(d) the penalty points to be taken into account by the fixed penalty clerk in respect of the offence are the penalty points which would have been taken into account under Article 31 of the Offenders Order if—

- (a) the person in question had been convicted of the offence; and
- (b) the number of penalty points to be attributed to the offence on that occasion had been determined in accordance with Article 30(3) of that Order.

Revocation of licences

5.—(1) Where the Department receives—

- (a) a notice sent to it under Article 4(2)(a) of particulars required to be endorsed on the counterpart of a person's licence, or
 - (b) a person's licence and its counterpart sent to it in accordance with Article 4(2)(b) or (4),
- the Department shall by notice served on that person revoke the licence.

(2) A revocation under paragraph (1) shall have effect from a date specified in the notice of revocation which shall not be earlier than the date of service of that notice.

Re-testing

6.—(1) Subject to paragraph (5) and Article 7, the Department may not under Part II of the Order of 1981 grant a person whose licence has been revoked under Article 5(1) a full licence to drive any class of vehicles in relation to which the revoked licence was issued as a full licence unless he satisfies the Department that within the relevant period he has passed a relevant driving test.

(2) In this Article “relevant driving test” means, in relation to a person whose licence has been revoked, any test which—

- (a) falls within sub-paragraph (a) or (b) of Article 3(2); and
- (b) is a test of competence to drive any vehicle included in any class of vehicles in relation to which the revoked licence was issued as a full licence.

(3) If the Department grants a full licence to a person who is required to pass a relevant driving test in order to be granted that licence, the licence granted shall (subject to Articles 9 and 70 to 79A of the Order of 1981) be one authorising that person to drive all the classes of vehicles in relation to which the revoked licence was issued as a full licence.

(4) In paragraph (1) “the relevant period” means the period beginning—

- (a) after the date of the revocation of the licence; and
- (b) not more than 2 years before the date on which the application for the full licence is made.

(5) Paragraph (1) does not apply to a person whose licence has been revoked under Article 5(1) if, before he passes a relevant driving test, an order is made in relation to him under Article 41 of the Offenders Order (disqualification until test is passed).

Restoration of licence without re-testing in certain cases

7.—(1) If the Department receives notice that a person whose licence has been revoked under Article 5(1) is appealing against a conviction or endorsement which was the basis or formed part of the basis for the revocation, the Department shall grant that person free of charge a full licence for a period prescribed by regulations made by it,

(2) Regulations under paragraph (1) may in particular prescribe—

- (a) a period expiring when the appeal is finally determined or abandoned; or

(b) a period expiring on the date on which the revoked licence would have expired if it had not been revoked.

(3) If the regulations prescribe a period other than that mentioned in paragraph (2)(a), a licence granted under paragraph (1) shall be treated as revoked if—

(a) following the appeal, the penalty points taken into account for the purposes of Article 4 are not reduced to a number smaller than 6; or

(b) the appeal is abandoned.

(4) If, in the case of a person whose licence has been revoked under Article 5(1), the Department receives notice that a court—

(a) has quashed a conviction which was the basis or formed part of the basis for the revocation of the licence;

(b) has quashed an endorsement which was the basis or formed part of the basis for the revocation of the licence and has not on doing so ordered him to be disqualified; or

(c) has made an order which has the effect of reducing the penalty points taken into account for the purposes of Article 4 to a number smaller than 6,

then, subject to paragraph (5), the Department shall grant that person free of charge a full licence for a period expiring on the date on which the revoked licence would have expired if it had not been revoked.

(5) Paragraph (4) does not require the Department to grant a licence to a person who has been granted a previous licence which has not been surrendered unless that person provides the Department with an explanation for not surrendering the previous licence that the Department considers adequate.

(6) If, in accordance with paragraph (1) or (4), the Department grants a full licence to a person whose licence has been revoked under Article 5(1), the licence granted shall be one authorising that person to drive all the classes of vehicles in relation to which the revoked licence was issued as a full licence.

(7) Any licence granted in accordance with paragraph (1) or (4) shall have effect for the purposes of the Road Traffic Orders as if it were a licence granted under Part II of the Order of 1981.

(8) The Department, after consultation with the Lord Chancellor, may by regulations make provision for requiring such courts as may be prescribed by the regulations to give notice to the Department—

(a) that a person whose licence has been or is due to be revoked under Article 5(1) is appealing against a conviction or endorsement which is the basis or forms part of the basis for the revocation;

(b) as to the final determination of such an appeal;

(c) that such an appeal has been abandoned.

(9) Regulations under this Article may include such incidental or supplementary provision as appears to the Department to be expedient and shall be subject to negative resolution.

Miscellaneous and general

Newly qualified drivers holding test certificates

8. Schedule 1 (which makes provision about newly qualified drivers who hold test certificates) shall have effect.

Early termination of probationary period

9. For the purposes of this Order a person's probationary period comes to an end if—
- (a) an order is made in relation to him under Article 41 of the Offenders Order (order that a person be disqualified until he passes the appropriate driving test);
 - (b) after his licence is revoked under Article 5(1), he is granted a full licence following the passing of a test which is a relevant driving test for the purposes of Article 6; or
 - (c) after his test certificate is revoked under paragraph 5(1) of Schedule 1, or his licence and test certificate are revoked under paragraph 8(1) of that Schedule, he is granted a full licence following the passing of a test which is a relevant driving test for the purposes of paragraph 6 or 9 of that Schedule.

Restrictions affecting certain vehicles and drivers

10. Schedule 2 (which makes amendments to provisions about vehicles driven by holders of provisional licences and newly qualified drivers) shall have effect.

The Crown

11. This Order applies to persons in the public service of the Crown.

Service of documents, etc.

12.—(1) Subject to any requirement of this Order with respect to the manner in which a person may be provided with a document for the purposes of this Order, section 24 of the Interpretation Act (Northern Ireland) 1954 shall apply in relation to the service of such a document as if in subsection (1) of that section the word

“registering” were omitted.

(2) Any requirement under any provision of this Order that a licence and its counterpart, a test certificate or a notice shall be sent to the Department is a requirement that the licence and its counterpart, the test certificate or the notice shall be sent to the Department at such address as the Department may determine.

Consequential amendments and repeals

13.—(1) The statutory provisions mentioned in Schedule 3 shall have effect subject to the consequential amendments there specified.

(2) The statutory provisions mentioned in Schedule 4 are repealed to the extent specified in the third column of that Schedule.

N. H. Nicholls
Clerk of the Privy Council