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## STATUTORY INSTRUMENTS

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# 2007 No. 916

## The Road Traffic (Northern Ireland) Order 2007

### PART V

#### DRIVING INSTRUCTION

##### *Appeals*

##### **Appeals to the Department**

**59.**—<sup>F1</sup>(A1) A person who is entitled to give paid driving instruction of any description by virtue of Part 2 of the Regulations of 2023 and who is aggrieved by the failure of the Registrar—

- (a) to make a decision in relation to an application for registration of the person before the end of the period of four months beginning with the day after the day on which the complete application was submitted; or
- (b) to make a decision in relation to an application for the extension of the person's registration before the end of the period of four months beginning with the day after the day on which the complete application was submitted,

may appeal by notice in writing to the Department.

(B1) On an appeal under paragraph (A1), the Department may direct the Registrar to make a decision in relation to the application.]

(1) A person who is aggrieved by a decision of the Registrar—

- (a) to refuse an application—
  - (i) for his registration, or
  - (ii) for the extension <sup>F2</sup>... of his registration;
- (b) to terminate his registration;
- (c) to give him a direction under Article 58,

may by notice in writing appeal to the Department within the period of 28 days beginning with the day on which notice of the decision was given in accordance with this Part.

(2) On an appeal under paragraph (1) the Department may —

- (a) grant or refuse the application;
- (b) continue or terminate the registration; or
- (c) revoke or confirm the direction or alter the period specified in the direction,

(as the case may be) as it thinks fit.

(3) The Department must, on making a decision under paragraph (2), give notice in writing of the decision to the appellant including—

- (a) where it dismisses the appeal, particulars of the grounds of the decision;
- (b) where it gives a direction under paragraph (6), notice of that direction.

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(4) A refusal or termination under paragraph (2)(a) or (b) shall take effect at the end of the period of 14 days beginning with the day on which notice of the decision is given (or, if any appeal brought against the decision under Article 60 is previously withdrawn or dismissed, when the appeal is withdrawn or dismissed).

(5) But the Department may, when giving notice of its decision of a refusal or termination under paragraph (2)(a) or (b), direct that the decision shall instead take effect—

- (a) where no appeal under Article 60 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, on the withdrawal of the appeal;
- (c) where such an appeal is brought and not withdrawn, if and when the appeal is dismissed, and not otherwise.

(6) A refusal or termination under paragraph (2)(a) or (b) may direct that an application by the appellant to be registered<sup>F3</sup>... shall not be entertained before the expiration of such period, not exceeding 4 years beginning with the day on which the refusal or termination is made, as may be specified in the refusal or termination.

(7) If the Department considers that any evidence adduced on an appeal had not been adduced to the Registrar before he gave the decision to which the appeal relates, it may (instead of making a decision under paragraph (2)) remit the matter to the Registrar for him to reconsider the decision.

(8) A person who is aggrieved by a decision of the Registrar not to give a direction under Article 56(7) or 57(6) may by notice in writing appeal to the Department within the period of 10 days beginning with the day on which notice of the decision is given.

(9) The Department shall determine an appeal under paragraph (8) by either—

- (a) giving the direction concerned; or
- (b) dismissing the appeal,

within 14 days beginning with the day on which notice of the decision is given.

(10) The Department must, on making a decision under paragraph (9), give notice in writing of the decision to the appellant including, where it dismisses the appeal, particulars of the grounds of that dismissal.

(11) Where the Registrar has decided to refuse an application for the extension<sup>F4</sup>... of a person's registration or to terminate a person's registration but either—

- (a) he gave a direction under Article 56(7) or 57(6); or
- (b) the Department has given such a direction on appeal,

he may by notice in writing apply to the Department for a direction that the decision is to take effect immediately.

(12) The Department shall determine the Registrar's application under paragraph (11) by either granting or refusing the application within 14 days beginning with the day on which notice of the decision is given .

(13) The Department may only grant the application if it considers 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 vehicle; or
- (b) the safety of road users.

(14) The Department must, on making a decision under paragraph (12), give notice in writing of the decision to the person concerned, including, where it grants the application, particulars of the grounds of that decision.

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### Textual Amendments

- F1** Art. 59(A1)(B1) inserted (1.12.2023) by [The Recognition of Professional Qualifications and Implementation of International Recognition Agreements \(Amendment\) Regulations 2023 \(S.I. 2023/1286\)](#), reg. 1, **Sch. 3 para. 95(4)**
- F2** Words in art. 59(1)(a)(ii) omitted (1.12.2023) by virtue of [The Recognition of Professional Qualifications and Implementation of International Recognition Agreements \(Amendment\) Regulations 2023 \(S.I. 2023/1286\)](#), reg. 1, **Sch. 4 para. 6(11)(a)**
- F3** Words in art. 59(6) omitted (1.12.2023) by virtue of [The Recognition of Professional Qualifications and Implementation of International Recognition Agreements \(Amendment\) Regulations 2023 \(S.I. 2023/1286\)](#), reg. 1, **Sch. 4 para. 6(11)(b)**
- F4** Words in art. 59(11) omitted (1.12.2023) by virtue of [The Recognition of Professional Qualifications and Implementation of International Recognition Agreements \(Amendment\) Regulations 2023 \(S.I. 2023/1286\)](#), reg. 1, **Sch. 4 para. 6(11)(c)**

### Appeals to court of summary jurisdiction

**60.**—(1) A person who is aggrieved by a decision of the Department—

- (a) under Article 59(2) to refuse an application for his registration or for the extension <sup>F5</sup>... of his registration;
- (b) under Article 59(2) to terminate his registration;
- (c) under Article 59(2) to confirm a direction or alter the period specified in a direction under Article 58;
- (d) under Article 59(6) to direct that an application by the appellant to be registered shall not be entertained before the expiration of the period specified in the direction,

may by notice in writing appeal to the court within the period of 28 days beginning with the day on which notice of the decision was given in accordance with Article 59(3).

(2) On an appeal under paragraph (1) the court may make such order—

- (a) for the grant or refusal of the application;
- (b) for the continuation or termination of the registration; or
- (c) for the revocation or confirmation of the direction or the alteration of the period specified in the direction,

(as the case may be) as it thinks fit.

(3) An order for refusal or termination under paragraph (2)(a) or (b) may direct that an application by the appellant to be registered <sup>F6</sup>... shall not be entertained before the expiration of such period, not exceeding 4 years beginning with the day on which the order is made, as may be specified in the order.

(4) If the court considers that any evidence adduced on an appeal had not been adduced to the Department before it gave the decision to which the appeal relates, it may (instead of making an order under paragraph (2)) remit the matter to the Department for it to reconsider the decision.

(5) A person who is aggrieved by a decision of the Department not to give a direction under Article 59(5) may by notice in writing appeal to the court within the period of 10 days beginning with the day on which notice of the decision is given.

(6) The court shall determine an appeal under paragraph (5) by either—

- (a) giving the direction concerned; or
- (b) dismissing the appeal.

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(7) Where the Department has decided to refuse an application for the extension of a person's registration or to terminate a person's registration but either—

- (a) it gave a direction under Article 59(5); or
- (b) the court has given such a direction on appeal,

it may by notice in writing apply to the court for an order that the decision is to take effect immediately.

(8) The court shall determine the Department's application under paragraph (7) by either granting or refusing the application.

(9) The court may only grant the application if it considers 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 vehicle; or
- (b) the safety of road users.

(10) On an appeal under paragraph (1) or (5) the respondent is the Department.

(11) Except in so far as the procedure for appeals or applications is provided for in this Article, Part VII of the Magistrates' Courts (Northern Ireland) Order 1981 (NI 26) shall apply to appeals and applications made under this Article.

(12) In this Article, “the court” means a court of summary jurisdiction <sup>F7</sup>....

#### Textual Amendments

- F5** Words in art. 60(1)(a) omitted (1.12.2023) by virtue of [The Recognition of Professional Qualifications and Implementation of International Recognition Agreements \(Amendment\) Regulations 2023 \(S.I. 2023/1286\)](#), reg. 1, **Sch. 4 para. 6(12)(a)**
- F6** Words in art. 60(3) omitted (1.12.2023) by virtue of [The Recognition of Professional Qualifications and Implementation of International Recognition Agreements \(Amendment\) Regulations 2023 \(S.I. 2023/1286\)](#), reg. 1, **Sch. 4 para. 6(12)(b)**
- F7** Words in art. 60(12) repealed (31.10.2016) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\)](#), s. 106(2), **Sch. 1 para. 132(8)**, **Sch. 9 Pt. 1** (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3)

#### Regulations in respect of appeals

**61.** The Department may by regulations make such further provision in respect of appeals or applications under Article 59 or 60 as it considers necessary or expedient.

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Order associated Parts and Chapters:**

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- Sch. 2 para. 4(d)-(g) repealed by [S.I. 2007/916 \(N.I.\) Sch. 8 Pt. 5](#)
- Sch. 4 para. 7(a)(b) repealed by [S.I. 2007/916 \(N.I.\) Sch. 8 Pt. 5](#)
- Sch. 4 para. 13(b)(c)(d) repealed by [S.I. 2007/916 \(N.I.\) Sch. 8 Pt. 5](#)
- Sch. 4 para. 21(a)-(c) repealed by [S.I. 2007/916 \(N.I.\) Sch. 8 Pt. 5](#)