Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Driving Instruction (Suspension and Exemption Powers) Act 2009 is up to date with all changes known to be in force on or before 26 April 2023. 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) View outstanding changes*

Driving Instruction (Suspension and Exemption Powers) Act 2009

2009 CHAPTER 17

An Act to provide for the suspension in certain circumstances of registration and licences relating to the provision of driving instruction; to make provision about exemptions from prohibitions concerning registration (including provision about suspension); to make provision about compensation in connection with suspension; and for connected purposes. [12th November 2009]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PROSPECTIVE

Suspension of registration

1 Suspension of registration

(1) After section 128 of the Road Traffic Act 1988 (c. 52) (as substituted by Schedule 6 to the Road Safety Act 2006 (c. 49)) (termination of registration by Registrar) insert—

"**128ZA Suspension of registration by Registrar**

(1) The Registrar may suspend a person's registration in respect of any description of driving instruction if the Registrar—

(a) has given, or is about to give, the person notice under section 127(5) or 128(4) in relation to the person's registration in respect of that description of driving instruction,

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Driving Instruction (Suspension and Exemption Powers) Act 2009 is up to date with all changes known to be in force on or before 26 April 2023. 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) View outstanding changes*

(b) is considering whether to refuse the application for an extension of the person's registration or (as the case may be) whether to terminate the person's registration, or has decided so to refuse or terminate but the decision is not yet in effect, and

(c) believes that the person would pose a significant threat to the safety of members of the public if the person's registration were not suspended.

(2) The Registrar must, on deciding to suspend a person's registration in respect of any description of driving instruction, give written notice of the decision to the person.

(3) The decision to suspend takes effect on the giving of the notice.

(4) No notice may be given under subsection (2) before the notice under section 127(5) or (as the case may be) 128(4) is given but the subsection (2) notice may be included in the section 127(5) or 128(4) notice if the section 127(5) or 128(4) notice is still to be given when the decision to suspend is made.

(5) A suspension under this section is terminated if—

(a) the Registrar decides not to refuse the application for an extension of the person's registration or (as the case may be) decides not to terminate the person's registration,

(b) the Registrar decides to refuse the application for an extension of the person's registration or (as the case may be) to terminate the person's registration but the decision has not taken effect and an appeal against the decision is successfully concluded,

(c) the Registrar has not decided whether to refuse the application for an extension of the person's registration or (as the case may be) whether to terminate the person's registration and the period of 75 days beginning with the giving of the section 127(5) or 128(4) notice has ended,

(d) the person's registration is terminated (whether under section 128 or otherwise), or

(e) the Registrar decides to terminate the suspension.

(6) The Registrar must give written notice to a person of the fact that the person's suspension is terminated as mentioned in subsection (5)(a) to (c) or (e).

(7) For the purposes of this Part of this Act, the fact that a person's registration is suspended does not prevent the person from being “registered”; and “registration” is to be construed accordingly.”

(2) In section 123(1)(a) and (b) of the Road Traffic Act 1988 (c. 52) (as substituted by Schedule 6 to the Act of 2006) (prohibition on giving paid driving instruction or carrying on business in the provision of paid driving instruction when unregistered) after “of driving instruction” insert “ and the registration is not suspended ”.

(3) In section 123A(3) of the Road Traffic Act 1988 (as substituted by Schedule 6 to the Act of 2006) (defence to offence of contravening the prohibition) after “question” insert “ or (as the case may be) that the registration was at that time suspended ”.

(4) In section 142 of the Road Traffic Act 1988 (as substituted by Schedule 6 to the Act of 2006) (index to Part 5), in the entry in the table for “Registered and registration”, for “Section 123(7)” substitute “ Sections 123(7) and 128ZA(7) ”.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Driving Instruction (Suspension and Exemption Powers) Act 2009 is up to date with all changes known to be in force on or before 26 April 2023. 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) View outstanding changes*

(5) In subsection (1) of section 18 of the Road Traffic Offenders Act 1988 (c. 53) (as it has effect with the substitution of paragraphs (a) to (d) of that subsection by Schedule 6 to the Act of 2006) (evidence by certificate as to registration etc. of driving instructors etc.), after paragraph (b) and before the word "or" at the end of the paragraph, insert—

"(ba) a person's registration was, or was not, suspended,".

2 Compensation in respect of suspension

After section 128ZA of the Road Traffic Act 1988 (c. 52) (as inserted or to be inserted by section 1(1) above) insert—

"**128ZB 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 being suspended by virtue of section 128ZA,

(b) non-income losses so incurred, and

(c) any other matters which relate to such a suspension and are provided for in the scheme.

(2) No payments may be made under a scheme in respect of a person's suspension unless—

(a) the suspension is terminated because the Registrar decides not to refuse the application for an extension of the person's registration or (as the case may be) decides not to terminate the person's registration,

(b) an appeal is successfully concluded against the decision of the Registrar to refuse the application for an extension of the person's registration or (as the case may be) to terminate the person's registration (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 refuse the application for an extension of the person's registration or (as the case may be) to terminate the person's registration 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,

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Changes to legislation: *Driving Instruction (Suspension and Exemption Powers) Act 2009 is up to date with all changes known to be in force on or before 26 April 2023. 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) View outstanding changes*

(b) specify the amounts of payments to be made or the basis or bases on which such amounts are to be calculated,

(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."

PROSPECTIVE

Exemptions from registration

3 Exemptions from prohibitions concerning registration

After section 124(2) of the Road Traffic Act 1988 (c. 52) (as substituted by Schedule 6 to the Road Safety Act 2006 (c. 49)) (exemption from prohibitions imposed by section 123) insert—

"(3) Circumstances prescribed by virtue of this section may, in particular, consist of, or include, the exercise (whether in individual cases or otherwise) of a discretion by the Registrar or another person.

(4) Regulations prescribing circumstances of the kind mentioned in subsection (3) may, in particular, make provision about—

(a) the procedure to be followed in relation to any decision resulting from the exercise of the discretion,

(b) the review or revocation of such a decision,

(c) an appeal against such a decision,

(d) the time when such a decision has effect,

(e) the suspension of an exemption in connection with the making of such a decision (including provision corresponding to that made by, or capable of being made under, section 128ZB).

(5) Regulations made by virtue of this section may, in particular, make provision for the payment of fees."

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Changes to legislation: *Driving Instruction (Suspension and Exemption Powers) Act 2009 is up to date with all changes known to be in force on or before 26 April 2023. 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) View outstanding changes*

Transitory amendments to existing regime

4 Transitory amendments to existing regime

(1) Schedule 1 (which contains amendments to Part 5 of the Road Traffic Act 1988 as it has effect without the amendments and repeals made by the Road Safety Act 2006) has effect.

(2) The enactments listed in Schedule 2 are repealed to the extent specified.

Commencement Information

I1 S. 4(1) in force at 8.6.2012 for specified purposes by S.I. 2012/1356, **art. 3(a)**

I2 S. 4(1) in force at 6.7.2012 in so far as not already in force by S.I. 2012/1356, **art. 4(a)**

Supplementary and final provisions

5 Consequential provision

(1) The Secretary of State may by order make such supplementary, incidental or consequential provision as the Secretary of State considers appropriate for the purposes of this Act or in consequence of this Act.

(2) The power to make an order under this section—

(a) is exercisable by statutory instrument,

(b) includes power to make transitional, transitory or saving provision,

(c) may, in particular, be exercised by amending, repealing, revoking or otherwise modifying any provision made by or under an enactment (including any Act passed in the same Session as this Act).

(3) In subsection (2)(c) "enactment" includes an Act of the Scottish Parliament.

(4) Subject to subsection (5), an instrument containing an order under this section may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

(5) An instrument containing an order under this section which does not amend or repeal a provision of a public general Act or an Act of the Scottish Parliament is subject to annulment in pursuance of a resolution of either House of Parliament.

6 Transitional, transitory and saving provision

(1) The Secretary of State may by order made by statutory instrument make such transitional, transitory or saving provision as the Secretary of State considers appropriate in connection with the coming into force of any provision of this Act.

(2) An order under subsection (1) may, in particular, take account of any amendment or repeal made, or to be made, by Schedule 6 to the Road Safety Act 2006 (c. 49).

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Driving Instruction (Suspension and Exemption Powers) Act 2009 is up to date with all changes known to be in force on or before 26 April 2023. 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) View outstanding changes*

7 Short title, commencement and extent

(1) This Act may be cited as the Driving Instruction (Suspension and Exemption Powers) Act 2009.

(2) Sections 5 and 6 and this section come into force on the day on which this Act is passed.

(3) Sections 1 to 4 and Schedules 1 and 2 come into force on such day as the Secretary of State may by order made by statutory instrument appoint; and different days may be appointed for different purposes.

(4) This Act extends only to England and Wales and Scotland.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Driving Instruction (Suspension and Exemption Powers) Act 2009 is up to date with all changes known to be in force on or before 26 April 2023. 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) View outstanding changes*

SCHEDULES

SCHEDULE 1

Section 4(1)

TRANSITORY AMENDMENTS TO EXISTING REGIME

Suspension of registration

1 After subsection (7) of section 128 of the Road Traffic Act 1988 (c. 52) (as it has effect without the substitution of that section by Schedule 6 to the Road Safety Act 2006 (c. 49)) (removal of names from register) insert—

"(7A) The Registrar may suspend a person's registration if the Registrar—

(a) has given, or is about to give, the person notice under subsection (4),

(b) is considering whether to remove the person's name from the register, or has decided to remove the name but the decision is not yet in effect, and

(c) believes that the person would pose a significant threat to the safety of members of the public if the person's registration were not suspended.

(7B) The Registrar must, on deciding to suspend a person's registration, give written notice of the decision to the person.

(7C) The decision to suspend takes effect on the giving of the notice.

(7D) No notice may be given under subsection (7B) before the notice under subsection (4) is given but the subsection (7B) notice may be included in the subsection (4) notice if the subsection (4) notice is still to be given when the decision to suspend is made.

(7E) A suspension under subsection (7A) is terminated if—

(a) the Registrar decides not to remove the person's name from the register,

(b) the Registrar decides to remove the person's name from the register but the decision has not taken effect and an appeal against the decision is successfully concluded,

(c) the Registrar has not decided whether to remove the person's name from the register and the period of 75 days beginning with the giving of the subsection (4) notice has ended,

(d) the person's name is removed from the register (whether under this section or otherwise), or

(e) the Registrar decides to terminate the suspension.

(7F) The Registrar must give written notice to a person of the fact that the person's suspension is terminated as mentioned in subsection (7E)(a) to (c) or (e).

(7G) For the purposes of this Part of this Act the fact that a person's registration is suspended does not prevent the person's name from being in the register."

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Changes to legislation: *Driving Instruction (Suspension and Exemption Powers) Act 2009 is up to date with all changes known to be in force on or before 26 April 2023. 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) View outstanding changes*

Commencement Information
I3 Sch. 1 para. 1 in force at 6.7.2012 by S.I. 2012/1356, **art. 4(b)**

2 (1) Section 123 of the Road Traffic Act 1988 (c. 52) (as it has effect without the substitution of that section by Schedule 6 to the Act of 2006) (driving instruction for payment to be given only by registered or licensed persons) is amended as follows.

(2) In subsection (1)(a) (prohibition on giving paid instruction in the driving of a motor car when unregistered or unlicensed) after "register")" insert " and the registration is not suspended ".

(3) In subsection (5) (defence to offence of contravening the prohibition) after "time" insert " , or (as the case may be) that the registration was at that time suspended ".

Commencement Information
I4 Sch. 1 para. 2 in force at 6.7.2012 by S.I. 2012/1356, **art. 4(b)**

3 After subsection (8) of section 127 of the Road Traffic Act 1988 (extension of duration of registration) insert—

"(9) Sections 128(7A) to (7G) and 131A apply in relation to suspending a person's registration in connection with an application under subsection (1) above as if the references in sections 128(7A) to (7G) and 131A to—

(a) a notice under section 128(4) were references to a notice under subsection (5) above, and

(b) the removal of the person's name from the register were (or, in the case of section 128(7E)(d), included) references to the refusal of the person's application for the retention of the person's name in the register."

Commencement Information
I5 Sch. 1 para. 3 in force at 6.7.2012 by S.I. 2012/1356, **art. 4(b)**

4 In subsection (1) of section 18 of the Road Traffic Offenders Act 1988 (c. 53) (as it has effect without the substitution of paragraphs (a) to (d) of that subsection by Schedule 6 to the Act of 2006) (evidence by certificate as to registration of driving instructors and licences to give instruction), after paragraph (b), insert—

"(ba) a person's registration was, or was not, suspended,".

Commencement Information
I6 Sch. 1 para. 4 in force at 6.7.2012 by S.I. 2012/1356, **art. 4(b)**

Suspension of licences

5 After subsection (6) of section 130 of the Road Traffic Act 1988 (as it has effect without the omission of that section by Schedule 6 to the Act of 2006) (revocation of licences) insert—

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"(7) The Registrar may suspend a person's licence if the Registrar—

(a) has given, or is about to give, the person notice under subsection (3),

(b) is considering whether to revoke the licence, or has decided to revoke the licence but the decision is not yet in effect, and

(c) believes that the person would pose a significant threat to the safety of members of the public if the licence were not suspended.

(8) The Registrar must, on deciding to suspend a person's licence, give written notice of the decision to the person.

(9) The decision to suspend takes effect on the giving of the notice.

(10) No notice may be given under subsection (8) before the notice under subsection (3) is given but the subsection (8) notice may be included in the subsection (3) notice if the subsection (3) notice is still to be given when the decision to suspend is made.

(11) A suspension under subsection (7) is terminated if—

(a) the Registrar decides not to revoke the person's licence,

(b) the Registrar decides to revoke the person's licence but the decision has not taken effect and an appeal against the decision is successfully concluded,

(c) the Registrar has not decided whether to revoke the person's licence and the period of 75 days beginning with the giving of the subsection (3) notice has ended,

(d) the person's licence expires or is revoked, or

(e) the Registrar decides to terminate the suspension.

(12) The Registrar must give written notice to a person of the fact that the person's suspension is terminated as mentioned in subsection (11)(a) to (c) or (e).

(13) For the purposes of this Part of this Act the fact that a person's licence is suspended does not prevent the person from being a licence-holder."

Commencement Information

I7 Sch. 1 para. 5 in force at 6.7.2012 by S.I. 2012/1356, **art. 4(b)**

6 After subsection (8) of section 129 of the Road Traffic Act 1988 (c. 52) (as it has effect without the omission of that section by Schedule 6 to the Act of 2006) (licences for giving instruction so as to obtain practical experience) insert—

"(9) Sections 130(7) to (13) and 131A apply in relation to suspending a person's licence in connection with an application for a new licence in substitution for a licence current at the date of the application as if—

(a) the references in sections 130(7) to (13) and 131A to—

(i) a notice under section 130(3) were references to a notice under subsection (7) above,

(ii) the revocation of the licence were (except in section 130(11)(d)) references to the refusal of the person's application for a new licence, and

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(iii) the decision not being in effect were references to the decision not being in effect because the licence has not expired, and

(b) section 131A(3), and the words "(whether or not the Registrar's decision has taken effect)" in section 131A(2)(b), were omitted."

Commencement Information

I8 Sch. 1 para. 6 in force at 6.7.2012 by S.I. 2012/1356, **art. 4(b)**

Compensation in respect of suspension

7 After section 131 of the Road Traffic Act 1988 (c. 52) (appeals) insert—

"Compensation

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.

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Driving Instruction (Suspension and Exemption Powers) Act 2009 is up to date with all changes known to be in force on or before 26 April 2023. 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) View outstanding changes*

(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,

(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."

Commencement Information

I9 Sch. 1 para. 7 in force at 8.6.2012 for specified purposes by S.I. 2012/1356, **art. 3(b)**

I10 Sch. 1 para. 7 in force at 6.7.2012 in so far as not already in force by S.I. 2012/1356, **art. 4(a)**

PROSPECTIVE

SCHEDULE 2

Section 4(2)

REPEALS

Short title and chapter	*Extent of repeal*
Road Traffic Act 1988 (c. 52)	In section 123 (as it has effect without the substitution of that section by Schedule 6 to the Road Safety Act 2006 (c. 49))— (a) in subsection (1)(a), the words "and the registration is not suspended", and (b) in subsection (5), the words ", or (as the case may be) that the registration was at that time suspended". Section 127(9).

Status: *This version of this Act contains provisions that are prospective.*
Changes to legislation: *Driving Instruction (Suspension and Exemption Powers) Act 2009 is up to date with all changes known to be in force on or before 26 April 2023. 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) View outstanding changes*

	Section 128(7A) to (7G).
	Section 129(9).
	Section 130(7) to (13).
	Section 131A and the italic heading before it.
Road Traffic Offenders Act 1988 (c. 53)	In section 18(1) (as it has effect without the substitution of paragraphs (a) to (d) of that subsection by Schedule 6 to the Act of 2006), paragraph (ba).
Driving Instruction (Suspension and Exemption Powers) Act 2009 (c. 17)	Section 4(1).
	Schedule 1.

Status:
This version of this Act contains provisions that are prospective.

Changes to legislation:
Driving Instruction (Suspension and Exemption Powers) Act 2009 is up to date with all changes known to be in force on or before 26 April 2023. 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.
View outstanding changes

Changes and effects yet to be applied to :

- s. 4(1) repealed by 2009 c. 17 Sch. 2
- Sch. 1 repealed by 2009 c. 17 Sch. 2