

## SCHEDULE 2

Regulation 3

### AMENDMENTS TO THE ROAD TRAFFIC OFFENDERS ACT 1988

1. In section 3 (restriction on institution of proceedings for certain offences), after subsection (2) there shall be inserted—

“(2A) In subsection (2) above the reference to section 94(3) of the Road Traffic Act 1988 includes a reference to that section as applied by section 99D of that Act.”

2. In section 26 (interim disqualification)(1), in subsection (10), for “and 47(2)” there shall be substituted “, 47(2) and 91A(5)”.

3.—(1) Section 36 (disqualification until test is passed)(2) shall be amended as follows.

(2) In subsection (11)—

(a) in paragraph (a)—

(i) for “member State” there shall be substituted “EEA State”, and

(ii) the words from “(as” to “1988)” shall be omitted, and

(b) in paragraph (b), for “that Act” there shall be substituted “the Road Traffic Act 1988”.

(3) After that subsection there shall be inserted—

“(11A) In subsection (11) above “designated country or territory” means a country or territory designated under section 108(2) of the Road Traffic Act 1988.”

4. After section 91 there shall be inserted—

#### **“Application to Community licence holders.**

**91A.**—(1) The references in sections 7, 26(7) and (8) and (9)(b), 27, 29(1), 30, 31(1), 32, 42(5), 44(1), 46(2), 47(3) and 48(1) and (2) of this Act to a licence includes references to a Community licence; and accordingly the reference in section 27(3)(b) of this Act to the suspension of a licence is to be construed in relation to a Community licence as a reference to the Community licence holder ceasing to be authorised by virtue of section 99(A)(1) of the Road Traffic Act 1988 to drive in Great Britain a motor vehicle of any class.

(2) The references in sections 26(9)(a) and 27(3) of this Act to a new licence include references to a counterpart of a Community licence.

(3) In relation to a Community licence holder to whom a counterpart is issued under section 99B of the Road Traffic Act 1988, the references in Part III of this Act (except sections 75(12), 76(8) and 77(9) of this Act) to a licence include references to a Community licence.

(4) Where a court orders the endorsement of the counterpart of any Community licence held by a person, it must send notice of the endorsement to the Secretary of State.

(5) Where a court orders the holder of a Community licence to be disqualified, it must send the Community licence and its counterpart (if any), on their being produced to the court, to the Secretary of State.

(6) A notice sent by a court to the Secretary of State in pursuance of subsection (4) above must be sent in such manner and to such address and contain such particulars as the Secretary of State may determine, and a Community licence and its counterpart (if any) so

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(1) Substituted by section 25 of the 1991 Act.

(2) Substituted by section 32 of the 1991 Act.

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sent in pursuance of subsection (5) above must be sent to such address as the Secretary of State may determine.

(7) Where a Community licence held by a person who is ordered by the court to be disqualified is sent to the Secretary of State in pursuance of subsection (5) above, the Secretary of State—

- (a) must send to the licensing authority in the EEA State in respect of which the Community licence was issued the holder's name and address and particulars of the disqualification, and
- (b) must (subject to subsection (8) below) return the Community licence to the holder—
  - (i) on the expiry of the period of disqualification, or
  - (ii) if earlier, on being satisfied that the holder has left Great Britain and is not normally resident there.

(8) Where—

- (a) the Secretary of State would, apart from this subsection, be under a duty on the expiry of the period of disqualification to return a Community licence to a person in pursuance of subsection (7)(b)(i) above, but
- (b) at that time, the person would not be authorised by virtue of section 99A(1) of the Road Traffic Act 1988 to drive in Great Britain a motor vehicle of any class,

the Secretary of State must send the Community licence to the licensing authority in the EEA State in respect of which it was issued and explain to them his reasons for so doing.

(9) A Community licence to be returned to any person under subsection (7) above may be returned to him by delivering it to him or by leaving it at his proper address or by sending it to him by post; and for the purposes of this subsection and section 7 of the Interpretation Act 1978 in its application to this subsection the proper address of any person shall be his latest address as known to the person returning the Community licence.

(10) In this section “period of disqualification” means, in relation to a Community licence holder, the period for which he is ordered by the court to be disqualified (otherwise than under section 36 of this Act).”

5. After section 91A there shall be inserted—

**“Effect of endorsement on Community licence holders.**

**91B.—**(1) An order that any particulars or penalty points are to be endorsed on the counterpart of any Community licence held by the person convicted shall operate as an order that—

- (a) the counterpart of any Community licence which he may then hold, or
- (b) the counterpart of any licence or Community licence which he may subsequently obtain,

is to be so endorsed until he becomes entitled under subsection (3) below to have a counterpart of his Community licence, or a licence and its counterpart, issued to him free from the particulars or penalty points.

(2) On the issue of a new counterpart of a Community licence or a new licence to a person, any particulars or penalty points ordered to be endorsed on the counterpart of any Community licence held by him shall be entered on the new counterpart or the counterpart of the new licence (as the case may be) unless he has become entitled under subsection (3)

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below to have a new counterpart of his Community licence or a new licence issued to him free from those particulars or penalty points.

(3) A person the counterpart of whose Community licence has been ordered to be endorsed is entitled to have issued to him with effect from the end of the period for which the endorsement remains effective (as determined in accordance with section 45(5) of this Act)—

- (a) a new counterpart of any Community licence then held by him free from the endorsement if he makes an application to the Secretary of State for that purpose in such manner as the Secretary of State may determine, or
- (b) a new licence with a counterpart free from the endorsement if he applies for a new licence in pursuance of section 97(1) of the Road Traffic Act 1988, surrenders any subsisting licence and its counterpart, pays the fee prescribed by regulations under Part III of that Act and satisfies the other requirements of section 97(1)."

6. In section 98 (interpretation)(3) —

- (a) in subsection (1)—
  - (i) in the definition of "licence", the words from "and" onwards shall be omitted, and
  - (ii) in the definition of "the provisions connected with the licensing of drivers", after "48", there shall be inserted "91A, 91B,", and
- (b) at the end of that subsection there shall be inserted "and "Community licence", "counterpart" and "EEA State" have the same meanings as in Part III of the Road Traffic Act 1988".

7. In Schedule 1 (offences to which sections 1, 6, 11 and 12(1) of the Act apply)(4), in the Table—

- (a) in the entry for section 94(3) of the Road Traffic Act 1988 (the "RTA"), in column 1, at the end there shall be inserted "and that subsection as applied by RTA section 99D",
- (b) in the entry for section 94(3A) of that Act, in column 1, at the end there shall be inserted "and that subsection as applied by RTA section 99D(b)",
- (c) in the entry for section 94A of that Act, in column 2, for the words from "or revocation" onwards there shall be substituted ", revocation under section 93 or service of a notice under section 99C",
- (d) after the entry for section 99 of that Act there shall be inserted—

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"RTA section 99B(11).	Driving after failure to comply with a requirement under section 99B(6), (7) or (10).	Section 6 of this Act."
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- (e) in the entries for section 114(1) of that Act, for the words "or PCV driver's licence" there shall be substituted "PCV licence or LGV Community licence".

8. In Schedule 2 (prosecution and punishment of offences)(5), in Part I—

- (a) in the entry for section 94(3) of the Road Traffic Act 1988 (the "RTA"), in column 2, at the end there shall be inserted "and that subsection as applied by RTA section 99D",

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(3) The definition of "licence" was amended by the 1990 Regulations.

(4) The relevant amendments are made by paragraph 27 of Schedule 3 to the 1989 Act and paragraphs 14 and 15 of Schedule 1 to the 1991 Act.

(5) The relevant amendments were made by paragraphs 28 and 29 of Schedule 3 to the 1989 Act, by the 1990 Regulations and by paragraphs 22 and 23 of Schedule 2 and Schedule 8 to the 1991 Act.

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- (b) in the entry for section 94(3A) of that Act, in column 2, at the end there shall be inserted “and that subsection as applied by RTA section 99D(b)”;
- (c) in the entry for section 94A of that Act, in column 2, for the words from “or revocation” onwards there shall be substituted “, revocation under section 93 or service of a notice under section 99C”;
- (d) after the entry for section 99(5) of that Act, there shall be inserted—

“RTA section 99B(1) after failure to comply with a requirement under section 99B(6), (7) or (10).	Driving	Summarily	Level 3 on the standard scale.	—	—	—
RTA section 99C(4)	Failure to deliver Community licence to Secretary of State when required by notice under section 99C.	Summarily.	Level 3 on the standard scale.	—	—	—”

- (e) in the entry for section 114 of that Act, in column 2, for the words “or PCV licence” there shall be substituted “PCV licence or LGV Community licence”;
- (f) after the entry for section 114 of that Act, there shall be inserted—

“RTA section 115(4)	Failure to deliver LGV or PCV Community licence when required by notice under section 114A.	Summarily.	Level 3 on the standard scale.	—	—	—”
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- (g) in the entry for section 120(5) of that Act, in column 2, at the end there shall be inserted “or LGV or PCV Community licence”;
- (h) in the entry for section 173 of that Act, in column 2, after “licences” there shall be inserted “counterparts of Community licences.”