STATUTORY INSTRUMENTS

2016 No. 1089

ROAD TRAFFIC

The Driving and Motorcycle Riding Instructors (Recognition of European Professional Qualifications) Regulations 2016

Made - - - -	*14th November 2016*
Laid before Parliament	*16th November 2016*
Coming into force - -	*9th December 2016*

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 97(3)(a) and (3A) [F1],105(1) and (3), 123(2), 125(3) [F2], 127(2) [F3], 134, 135(1) and 141 [F4] of the Road Traffic Act 1988 [F5] and section 2(2) of the European Communities Act 1972 [F6].

The Secretary of State is a Minister designated for the purposes of section 2(2) of the European Communities Act 1972 in relation to the recognition of higher education diplomas, formal qualifications, or experience in the occupation, required for the pursuit of professions or occupations [F7].

The Secretary of State has consulted with representative organisations as required by section 195(2) of the Road Traffic Act 1988.

F1 Section 97(3A) was inserted by the Road Traffic (Driver Licensing and Information Systems) Act 1989 (c.22), **section 6(2)(c)** and was amended by S.I. 1996/1974 and by S.I. 1998/1420.
F2 Section 125(3) was amended by the Deregulation Act 2015 (c.20), **Schedule 2**, Part 2, paragraphs 16 and 17, and by S.I. 1999/357 and S.I. 2015/583.
F3 Section 127(2) was amended by the Road Traffic (Driving Instruction by Disabled Persons) Act 1993 (c.31), the Schedule, paragraph 5(2) and (3).
F4 Section 141 was amended by the Road Safety Act 2006 (c.49), **Schedule 6**, paragraphs 1 and 24.
F5 1988 c.52. See definitions of "prescribed" and "regulations" in section 108(1).
F6 1972 c.68; section 2(2) was amended by the Legislative and Regulatory Reform Act 2006 (c.51), **section 27(1)(a)** and the European Union (Amendment) Act 2008 (c.7), **section 3(3)** and the Schedule, Part 1.
F7 S.I. 2002/248.

Citation and Commencement

1. These Regulations may be cited as the Driving and Motorcycle Riding Instructors (Recognition of European Professional Qualifications) Regulations 2016 and come into force on 9th December 2016.

Amendment of the Road Traffic Act 1988

2. #??

(1) Until the commencement of Schedule 6 to the Road Safety Act 2006 [F8], Part 5 of the Road Traffic Act 1988 (driving instruction) has effect as if it were amended as follows.

(2) In section 123(1) (driving instruction for payment to be given only by registered or licensed persons) [F9]#??

(a) in paragraph (a), after #??is in#?# insert " Part 1 of ",

(b) omit the #??or#?# at the end of that paragraph, and

(c) after that paragraph insert#??

"(aa) the name of the person giving the instruction is in Part 2 of the register, the registration is not suspended and the instruction is being given in accordance with a right conferred by Part 2 of the European Union (Recognition of Professional Qualifications) Regulations 2015 (S.I. 2015/2059), or".

(3) After section 123(6) insert#??

"(6A) A person is not guilty of an offence under subsection (6) if#??

(a) the person proves that the instruction was given in accordance with a right conferred on the person by Part 2 of the European Union (Recognition of Professional Qualifications) Regulations 2015 (S.I. 2015/2059), and

(b) the person had not received the certificate mentioned in subsection (2)(a).".

(4) In section 125 (the register of approved instructors) [F10]#??

(a) after subsection (1) insert#??

"(1A) The register is to be in two Parts as follows#??

(a) Part 1 is to contain the names of persons required to be entered in it by subsection (3) (persons who have satisfied the conditions specified in that subsection), and

(b) Part 2 is to contain the names of persons required to be entered in it by subsection (4A)(a) (persons entitled to give instruction on a temporary and occasional basis). ",

(b) in subsection (2), after #??name in#?# insert " either Part of ",

(c) in subsection (2A), after #??applicant#?# insert " for registration in Part 1 of the register ",

(d) in subsection (2C), after #??applicant#?# insert " for registration in Part 1 of the register ",

(e) in subsection (3)#??

(i) after #??of his name in#?# insert " Part 1 of ", and

(ii) after #??enter his name in#?# insert " that Part of ",

(f) after subsection (3) insert#??

"(3A) Where the Registrar is satisfied that a person who has applied under subsection (3) is entitled to give paid instruction in the driving of motor cars by virtue of Part 3 of the European Union (Recognition of Professional Qualifications) Regulations 2015 (S.I. 2015/2059)#??

(a) the Registrar may not impose a requirement on the applicant under subsection (2C) if the Registrar is satisfied that the applicant holds a current certificate or other document that, under the law of the State that is the applicant's home State for the purposes of those regulations, is of corresponding effect to an emergency control certificate, and

(b) subsection (3)(a) does not apply in relation to the applicant.", and

(g) after subsection (4) insert#??

"(4A) Where a person submits a declaration to the Registrar, or to the appropriate Northern Ireland officer, in accordance with regulations 15 and 16 of the European Union (Recognition of Professional Qualifications) Regulations 2015 (S.I. 2015/2059) that entitles the person to give paid instruction in the United Kingdom in the driving of a motor car on a temporary and occasional basis#??

(a) the Registrar must enter the person's name in Part 2 of the register, and

(b) until the Registrar has complied with paragraph (a), the person's name is to be treated for the purposes of section 123(1)(aa), subsection (5)(b) of this section and section 135 as being in Part 2 of the register.

(4B) In subsection (4A) #??appropriate Northern Ireland officer#?# means the officer referred to in Article 51(2) of the Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)).".

(5) In section 126 (duration of registration) [F11]#??

(a) in subsection (1), after #??removed from#?# insert " Part 1 of ", and

(b) after subsection (3) insert#??

"(3A) Unless previously removed under the following provisions of this Part of this Act, the name of a person shall be removed from Part 2 of the register if the declaration or renewal under regulation 15 of the European Union (Recognition of Professional Qualifications) Regulations 2015 (S.I. 2015/2059) by virtue of which the name of the person was entered in the register is not renewed within one year of being made.".

(6) In section 127 (extension of duration of registration) [F12]#??

(a) in subsection (1), after #??removed from#?# insert " Part 1 of ", and

(b) in subsection (2), after #??retained in#?# insert " Part 1 of ".

(7) In section 128 (removal of names from register) [F13]#??

(a) in subsection (1), after #??person from#?# insert " Part 1 of ",

(b) after that subsection insert#??

"(1A) The Registrar may remove the name of a person from Part 2 of the register if satisfied that#??

(a) in a case where the declaration by virtue of which the person's name was entered in the register has not been renewed, at any time since that declaration was made, and

(b) in a case where the declaration has been renewed, at any time since it was last renewed,

any of the relevant conditions, or the additional condition, was fulfilled in the person's case. ",

(c) after subsection (2) insert#??

"(2B) The additional condition is that the person was not entitled to give paid instruction in the driving of a motor car on a temporary and occasional basis by virtue of Part 2 of the European Union (Recognition of Professional Qualifications) Regulations 2015 (S.I. 2015/2059).", and

(d) in subsection (8)#??

(i) after #??removed from#?#, in both places where it occurs, insert " Part 1 of ", and

(ii) after #??again in#?# insert " that Part of ".

(8) In section 131(4)(b) [F14] (appeals), after #??entered in#?# insert " Part 1 of ".

(9) In section 135 (power to prescribe form of certificate of registration etc)#??

(a) in subsection (2)#??

(i) after #??is not in#?# insert " Part 1 of ",

(ii) in paragraph (a), after #??section#?# insert " for use by persons whose names are in that Part of the register ",

(iii) in paragraph (c), after #??is in#?# insert " that Part of ", and

(iv) after #??was not in#?# insert " that Part of ",

(b) after that subsection insert#??

"(2A) If a person whose name is not in Part 2 of the register#??

(a) wears or displays a badge or certificate prescribed under this section for use by persons whose names are in that Part of the register, or

(b) takes or uses any name, title, addition or description implying that his or her name is in that Part of the register,

he or she is guilty of an offence unless he or she proves that he or she did not know, and had no reasonable cause to believe, that his or her name was not in that Part of the register at the material time.", and

(c) for subsection (3) substitute#??

"(3) If P uses, in relation to any person employed by P whose name is not in Part 1 of the register,

(a) a title or description prescribed under this section for use by persons whose names are in that Part of the register, or

(b) a name, title, addition or description implying that the person's name is in that Part of the Register,

P is guilty of an offence unless P proves that P did not know, and had no reasonable cause to believe, that the person's name was not in that Part of the register at the material time.

(4) If P uses, in relation to any person employed by P whose name is not in Part 2 of the register, a name, title, addition or description implying that the person's name is in that Part of the register, P is guilty of an offence unless P proves that P did not know, and had no reasonable cause to believe, that the person's name was not in that Part of the register at the material time.

(5) If P issues any advertisement or invitation calculated to mislead with respect to the extent to which persons employed by P are registered under this Part, P is guilty of an offence unless P proves that P did not know, and had no reasonable cause to believe, that the advertisement or invitation was misleading in that respect at the time it was issued.

(6) In this section #??P#?# means a person carrying on business in the provision of instruction in the driving of motor vehicles.".

F8 2006 c.49.

F9 Section 123 was amended by the Road Traffic (Driving Instruction by Disabled Persons) Act 1993 (c.31), the Schedule, paragraph 2 and by the Driving Instruction (Suspension and Exemption Powers) Act 2009 (c.17), **Schedule 1**, paragraph 2.

F10 Section 125 was amended by the Deregulation Act 2015 (c.20), **Schedule 2**, Part 2, paragraphs 16 and 17, and by S.I. 1999/357 and S.I. 2015/583.

F11 Section 126(4) was inserted by the Road Traffic (Driving Instruction by Disabled Persons) Act 1993 (c.31), **section 6** and then repealed by the Deregulation Act 2015 (c.20), **Schedule 2**, Part 2, paragraphs 16 and 19.

F12 Section 127 was amended by the Road Traffic (Driving Instruction by Disabled Persons) Act 1993 (c.31), the Schedule, paragraph 5, the Transport Act 2000 (c.38), **section 259(1)**, the Driving Instruction (Suspension and Exemption Powers) Act 2009 (c.17), **Schedule 1**, paragraph 3, and the Deregulation Act 2015 (c.20), **Schedule 2**, Part 2, paragraphs 16 and 20.

F13 Section 128 was amended by the Road Traffic (Driving Instruction by Disabled Persons) Act 1993 (c.31), the Schedule, paragraph 6, the Transport Act 2000 (c.38), **section 259(2)**, the Driving Instruction (Suspension and Exemption Powers) Act 2009 (c.17), **Schedule 1**, paragraph 1, the Deregulation Act 2015 (c.20), **Schedule 2**, Part 1, paragraphs 1 and 8, and Part 2, paragraphs 16 and 21 and by S.I. 1991/1129 and S.I. 1999/357.

F14 Section 31, was amended by the Transport Act 2000 (c.38), **sections 258**, 259, 260 and 274 and by S.I. 2009/1885.

3. #??

(1) Immediately after section 1 of the Driving Instructors (Registration) Act 2016 [F15] comes into force, section 126A (re-entry in the register following expiry of registration) [F16] of the Road Traffic Act 1988 is amended as follows.

(2) In the heading, after #??Re-entry in#?# insert " Part 1 of ".

(3) In subsection (1)#??

(a) after #??removed from#?# insert " Part 1 of ", and

(b) after #??entered again in#?# insert " that Part of ".

F15 2016 c. 16.

F16 Section 126A is prospectively inserted into the Road Traffic Act 1988 by section 1 of the Driving Instructors (Registration) Act 2016.

4. #??

(1) Immediately after section 2 of the Driving Instructors (Registration) Act 2016 comes into force the Road Traffic Act 1988 is amended as follows.

(2) In section 128AZA (voluntary removal from the register) [F17]#??

(a) in the heading, after #??removal from#?# insert " Part 1 of ",

(b) in subsection (1), after #??name from#?# insert " Part 1 of ", and

(c) in subsection (4), after #??name in#?# insert " Part 1 of ".

(3) In section 128AZB (re-entry in the register following voluntary removal) [F18]#??

(a) in the heading, after #??re-entry in#?# insert " Part 1 of ",

(b) in subsection (1)#??

(i) after #??removed from#?# insert " Part 1 of ", and

(ii) after #??entered again in#?# insert " that Part of ".