STATUTORY INSTRUMENTS

2015 No. 560 (C. 29)

ROAD TRAFFIC

The Road Safety Act 2006 (Commencement No. 11 and Transitional Provisions) Order 2015

Made - - - - 3rd March 2015

The Secretary of State, in exercise of the powers conferred by section 61(1), (2) and (6) of the Road Safety Act 2006(**1**), makes the following Order.

PART 1

Citation and Interpretation

Citation

1. This Order may be cited as the Road Safety Act 2006 (Commencement No. 11 and Transitional Provisions) Order 2015.

Interpretation

2. In this Order—

"the RTA" means the Road Traffic Act 1988(**2**);

"the RTOA" means the Road Traffic Offenders Act 1988(**3**);

"Commencement Date" means 8th June 2015;

"Community counterpart" means the document referred to as a "counterpart" issued by the Secretary of State to a Community licence holder under section 99B(**4**) of the RTA (as that section stood prior to this Order coming into force) and "Community licence" means the same as "Community licence" in section 108(**5**) of the RTA;

"conditional offer" means a conditional offer made under section 75(**6**) of the RTOA;

(**1**) 2006 c. 49.
(**2**) 1988 c. 52.
(**3**) 1988 c. 53.
(**4**) Section 99B of the Road Traffic Act 1988 was inserted by S.I. 1996/1974.
(**5**) The definition of "Community licence" in section 108 of the Road Traffic Act 1988 was amended by S.I. 1996/1974.
(**6**) Section 75 of the Road Traffic Offenders Act 1988 was substituted by section 34 of the Road Traffic Act 1991 (c. 40) and subsequently amended by paragraph 153 of Schedule 13 to the Access to Justice Act 1999 (c. 22), section 76 of the Police

"Counterpart" means the document, issued with a driving licence by the Secretary of State under the RTA, designed for the endorsement of particulars related to the driving licence;

"driving licence" means a licence to drive a motor vehicle granted under Part 3 of the RTA;

"driving record" means the same as "driving record" in section 97A(**7**) of the RTOA;

"disqualification" means the same as "disqualification" in section 98(1) of the RTOA;

"fixed penalty notice" means the same as "fixed penalty notice" in section 52(**8**) of the RTOA;

"section 109A counterpart" means the document referred to as a "counterpart" issued to the holder of a Northern Ireland licence by the Secretary of State under section 109A(**9**) of the RTA (as that section stood prior to this Order coming into force) and "Northern Ireland licence" means the same as "Northern Ireland licence" in section 108(**10**) of the RTA;

"traffic commissioner" means a commissioner appointed under section 4 of the Public Passenger Vehicles Act 1981(**11**).

PART 2

Provisions coming into force

Provisions coming into force

3. The following provisions come into force on the Commencement Date—

(a) section 10 of the Road Safety Act 2006, and accordingly Schedule 3, apart from—

(i) paragraph 6(2)(b) and 6(3);

(ii) paragraph 8;

(iii) paragraph 10;

(iv) paragraph 24;

(v) paragraph 25;

(vi) paragraph 28(3);

(vii) paragraph 59(2);

(viii) paragraph 76;

(ix) paragraph 77(3);

(x) paragraph 78;

(xi) paragraph 79;

of that Schedule;

(b) section 59 of the Road Safety Act 2006, in so far as its relates to paragraph 4 of Schedule 7, and accordingly paragraph 4 of Schedule 7, apart from the following entries—

Reform Act 2002 (c. 30), section 69 of the Railways and Transport Safety Act 2003 (c. 20), paragraph 319 of Schedule 8 to the Courts Act 2003 (c. 39) and paragraph 15 of Schedule 1 and paragraph 24 of Schedule 2 to the Road Safety Act.

(**7**) Section 97A of the Road Traffic Offenders Act 1988 (c. 53) was inserted by section 8 of the Road Safety Act 2006.

(**8**) Section 52 of the Road Traffic Offenders Act 1988 was amended by paragraph 2 of Schedule 1 to the Road Safety Act 2006 (c. 49) and part 14 of Schedule 1 to the Statute Law (Repeals) Act 2004 (c. 14).

(**9**) Section 109A of the Road Traffic Act 1988 was inserted by section 77 of the Crime (International Co-operation) Act 2003 (c. 32).

(**10**) The definition of "Northern Ireland licence" in section 108 of the Road Traffic Act 1988 was inserted by paragraph 15 of Schedule 3 to the Road Traffic (Driver Licensing and Information Systems) Act 1989 (c. 22) and subsequently amended by paragraph 25 of Schedule 5 to the Crime (International Co-operation) Act 2003.

(**11**) Section 4 of the Public Passenger Vehicles Act 1981 (c. 14) was substituted by section 3 of the Transport Act 1985 (c. 67) and amended by sections 2 and 3 of the Local Transport Act 2008 (c. 26).

(i) paragraphs (b) and (d) of the entry relating to section 97 of the RTA;

(ii) the entry relating to section 98A of the RTA;

(iii) the entry relating to section 99A of the RTA;

(iv) paragraph (a) of the entry relating to section 105(2) of the RTA;

(v) the entry relating to section 141A(5) of the RTA 1988;

(vi) the entry relating to section 142 of the RTA 1988;

(vii) paragraph (c) of the entry relating to Schedule 3 to the Road Traffic (Driver Licensing and Information Systems) Act 1989(**12**);

(viii) the entry relating to section 64 of the Crime (International Co-operation) Act 2003(**13**);

(ix) the entry relating to section 74(1) of the Crime (International Co-operation) Act 2003;

in that paragraph.

PART 3

Transitional Provisions

Applications for licences and counterparts made prior to the Commencement Date

4.—(1) Where, prior to the Commencement Date, a person made an application for a new or replacement driving licence and Counterpart and that new or replacement driving licence and Counterpart have not been issued prior to the Commencement Date, the Secretary of State may treat such an application as an application for a new or replacement driving licence only.

(2) Where, prior to the Commencement Date, a person made an application for a new or replacement Community counterpart and that new or replacement Community counterpart has not been issued prior to the Commencement Date, the application may be treated as the provision of information to the Secretary of State by the Community licence holder under section 99B of the RTA (as amended by the provisions commenced in this Order) and a new or replacement Community counterpart is not required to be issued.

(3) Where, prior to the Commencement Date, a person made an application for a new or replacement section 109A counterpart and that new or replacement section 109A counterpart has not been issued prior to the Commencement Date the application may be treated as the provision of information to the Secretary of State by the Northern Ireland licence holder under section 109A of the RTA (as amended by the provisions commenced in this Order) and a new or replacement section 109A counterpart is not required to be issued.

Counterparts seized or surrendered

5. On or after the Commencement Date a Counterpart, Community counterpart or section 109A counterpart may be destroyed by a court, traffic commissioner or the Secretary of State if it—

(a) was seized by, surrendered to, produced to or otherwise came to be lawfully held by that court, traffic commissioner or by the Secretary of State prior to the Commencement Date and was not required to be returned prior to the Commencement Date; or

(**12**) 1989 c.22.
(**13**) 2003 c.32.

(b) was seized by, surrendered to, produced to or otherwise came to be lawfully held by that court, traffic commissioner or by the Secretary of State on or after the Commencement Date.

Treatment of endorsements placed on counterparts prior to the Commencement Date

6.—(1) Paragraphs (2) to (5) apply where prior to the Commencement Date endorsements were placed on a person's Counterpart (or in the case of a driving licence which came into force before 1st June 1990 on that driving licence).

(2) Those endorsements of particulars, penalty points or disqualifications on a person's Counterpart or driving licence that, in accordance with section 45(**14**) of the RTOA, remain effective immediately prior to the Commencement Date will be treated on or after the Commencement Date as endorsements entered on that person's driving record.

(3) Those endorsements treated as endorsements entered onto that person's driving record by operation of paragraph (2) will be removed from that person's driving record at the end of the period for which that endorsement remains effective, as determined by section 45A(**15**) of the RTOA.

(4) Driving licence suspensions endorsed on a person's Counterpart which remain effective immediately before the Commencement Date must be treated on or after the Commencement Date as suspensions endorsed onto that person's driving record.

(5) Where, prior to the Commencement Date, under section 36(10)(**16**) of the RTOA a person's Counterpart or driving licence was endorsed with the particulars of any test of competence passed after an Order for disqualification was made, that endorsement must be treated on or after the Commencement Date as if it was endorsed on the person's driving record pursuant to section 36(10A) of the RTOA.

(6) Where a person was issued with a Community counterpart prior to the Commencement Date paragraphs (1) to (5) are to apply as if references to a Counterpart were references to a Community counterpart and references to a driving licence are to a Community licence.

(7) Where a person was issued with a section 109A counterpart prior to the Commencement Date paragraphs (1) to (5) are to apply as if references to a Counterpart were references to a section 109A counterpart and references to a driving licence are to a Northern Ireland licence.

Offences committed prior to the Commencement Date

7.—(1) Where on or after the Commencement Date—

(a) a person receives endorsements, penalty points, or a disqualification (whether as the result of court proceedings, fixed penalty notice procedures, conditional offer procedures, mutual recognition of driving disqualifications or otherwise); and

(b) those endorsements, penalty points or disqualifications relate to conduct prior to the Commencement Date,

those endorsements, penalty points or disqualifications must be endorsed on that person's driving record and not on that person's Counterpart, Community counterpart or section 109A counterpart.

(**14**) Section 45 of the Road Traffic Offenders Act 1988 was amended by paragraph 25 of Schedule 3 to the Road Traffic (Driver Licensing and Information Systems) Act 1989 (c. 22), paragraph 99 of Schedule 4 to the Road Traffic Act 1991 (c. 40), sections 14 and 58 of, and paragraph 9 of Schedule 2 and paragraph 1 of Schedule 7 to the Road Safety Act 2006, paragraph 7 of Schedule 27 to the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10) and by S.I. 1990/144.
(**15**) Section 45A of the Road Traffic Offenders Act 1988 was inserted by paragraph 10 of Schedule 2 to the Road Safety Act 2006.
(**16**) Section 36 of the Road Traffic Offenders Act 1988 (c. 53) was substituted by section 32 of the Road Traffic Act 1991 (c. 40); section 36(11) was subsequently amended by S.I. 1996/1974.