STATUTORY RULES OF NORTHERN IRELAND

2017 No. 117

EUROPEAN COMMUNITIES
ROAD TRAFFIC AND VEHICLES

The Driving and Motorcycle Instructors (Recognition of European Professional Qualifications) Regulations (Northern Ireland) 2017

Made - - - -	*23rd June 2017*
Coming into operation	*31st July 2017*

The Department for Infrastructure(**1**) makes the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(**2**) and Articles 48, 51(1) and (5), 52(3) and (7), 57(1), 70(1), 75 and 76 of the Road Traffic (Northern Ireland) Order 2007(**3**) and now vested in it(**4**).

The Department for Infrastructure is designated(**5**) for the purposes of section 2(2) of the European Communities Act 1972 in relation to measures relating to recognition of higher-education diplomas or formal qualifications required for the pursuit of professions or other occupations.

PART 1

General

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Driving and Motorcycle Instructors (Recognition of European Professional Qualifications) Regulations (Northern Ireland) 2017 and shall come into operation on 31st July 2017.

(**1**) Formerly the Department for Regional Development; see section 1(6) and (11) and Schedule 1 to, the Departments Act (Northern Ireland) 2010 (2016 c. 5 (N.I.)). Pursuant to section 1(9) of that Act, the Department of the Environment is dissolved

(**2**) 1972.c. 68; section 2(2) is amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c. 51) and by section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (2008 c. 7)

(**3**) 2007 No. 916 (N.I. 10)

(**4**) See Article 8(1)(b) of, and Part 2 of Schedule 5 to, the Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. 2016 No. 76)

(**5**) S.I. 1989/1327

(2) The Interpretation Act (Northern Ireland) 1954(**6**) shall apply to these Regulations as it applies to an Act of the Assembly.

Establishment of Part 1 of register

2. On the day on which these Regulations come into operation, the register previously established and maintained under Part V of the Road Traffic (Northern Ireland) Order 2007 becomes Part 1 of the register established and maintained for the purposes of Part V of that Order.

PART 2

Amendment of primary legislation

Amendment of the Road Traffic (Northern Ireland) Order 2007

3.—(1) The Road Traffic (Northern Ireland) Order 2007 is amended in accordance with paragraphs (2) to (14).

(2) In Article 2(1) (interpretation) after the definition of "the Order of 1995" insert—

""the Regulations of 2015" means the European Union (Recognition of Professional Qualifications) Regulations 2015(**7**);".

(3) In Article 48 (requirement of registration)—

(a) for paragraph (1) substitute—

"(1) A person must not give paid driving instruction of any prescribed description unless——

(a) he is registered in Part 1 of the register in respect of the giving of that description of driving instruction; or

(b) he is registered in Part 2 of the register in respect of the giving of that description of driving instruction, the registration is not suspended and the instruction is being given in accordance with a right conferred by Part 2 of the Regulations of 2015.

(1A) A person must not carry on a business in the provision of paid driving instruction of any prescribed description unless—

(a) he is registered in Part 1 of the register in respect of the carrying on of business in the provision of that description of driving instruction; or

(b) he is registered in Part 2 of the register in respect of the carrying on of business in the provision of that description of driving instruction, the registration is not suspended and the instruction is being given in accordance with a right conferred by Part 2 of the Regulations of 2015."; and

(b) in paragraph (7) after "his name is in" insert "Part 1 or 2 of".

(4) In Article 49 (paid driving instruction: offences)—

(a) in paragraph (1) for "48(1)(a)" substitute "48(1)";

(b) in paragraph (2) for "48(1)(b)" substitute "48(1A)";

(c) in paragraph (3) after "time registered" insert "in the appropriate part of the register"; and

(d) after paragraph (4) insert—

(**6**) 1954 c. 33 (N.I.)
(**7**) S.I. 2015/2059

"(5) A person is not guilty of an offence under paragraph (4) if—

(a) the person proves that the instruction was given in accordance with a right conferred on the person by Part 2 of the Regulations of 2015; and

(b) the person had not received the evidence of registration mentioned in Article 48(2).".

(5) In Article 51 (register) after paragraph (1) insert—

"(1A) The register is to be in two Parts.

(1B) Part 1 is to contain the names and addresses of persons the Registrar must register pursuant to Article 52(1).

(1C) Part 2 is to contain the names and addresses of persons the Registrar must register pursuant to Article 52(2A).".

(6) In Article 52 (conditions of registration)—

(a) in paragraph (1)—

(i) after "registered" insert "in Part 1 of the register";

(ii) after "register him" insert "in that Part";

(b) in paragraph (2), after "registered" insert "in Part 1 of the register"; and

(c) after that paragraph insert—

"(2A) Where a person submits to the Registrar, or to the appropriate officer under the 1988 Act, a declaration in accordance with regulations 15 and 16 of the Regulations of 2015 in respect of any description of driving instruction that entitles the person pursuant to Part 2 of those Regulations to give paid driving instruction in the United Kingdom on a temporary and occasional basis—

(a) the Registrar must register him in Part 2 of the register in respect of that description of driving instruction; and

(b) until the Registrar has complied with sub-paragraph (a), the person is to be treated for the purposes of Articles 48 and 70 of this Order as being in Part 2 of the register.

(2B) In paragraph (2A), "appropriate officer under the 1988 Act" means the officer referred to in section 125(2) of the Road Traffic Act 1988.".

(7) In Article 55 (duration of registration)—

(a) in paragraph (1) after "registration" insert "in Part 1 of the register";

(b) in paragraph (3) after "person's registration" insert "in Part 1 of the register";

(c) in paragraph (4) after "registration" insert "in Part 1 of the register"; and

(d) after paragraph (5) add—

"(6) Unless previously terminated under the provisions of this Order, a person's registration in Part 2 of the register in respect of any description of driving instruction shall be terminated at the end of the period of one year beginning with the day specified in paragraph (7).

(7) That day is—

(a) where the person has not submitted a relevant renewal of the declaration, before the first day of the month next after that in which the person became registered in Part 2 in respect of that description of driving instruction, that first day of that month; or

(b) where the person has not submitted a subsequent relevant renewal, before the first day of the month next after that in which the person's registration in Part 2 was last renewed pursuant to the submission by him of a previous relevant renewal, that first day of that month.

(8) In paragraph (7), 'a relevant renewal' means a renewal in accordance with regulations 15 and 16 of the Regulations of 2015 of the declaration or, as may be appropriate, of a previous renewal of the declaration.".

(8) In Article 56 (extension of duration of registration)—

(a) in paragraph (1) after "his registration" insert "in Part 1 of the register";

(b) in paragraph (4) after "of a person" insert "in Part 1 of the register"; and

(c) in paragraph (6) after "person's registration" insert "in Part 1 of the register".

(9) In Article 57 (termination of registration)—

(a) in paragraph (1)—

(i) after sub-paragraph (a) omit "or";

(ii) after sub-paragraph (b) insert—

"(c) in a case where the declaration by virtue of which he was registered has not been renewed as mentioned in Articles 55(6) to (8), at any time since the declaration was made; or

(d) in a case where the declaration has been renewed as mentioned in those Articles, at any time since it was last renewed."; and

(b) in paragraph (3)—

(i) after "extended" insert "or renewed";

(ii) after "extension" insert "or renewal".

(10) In Article 58(1) (power to give direction as to further applications) after "Registrar" insert ", in respect of Part 1 of the register,".

(11) In Article 59 (appeals to the Department)—

(a) in paragraph (1)(a)(ii) after "extension" insert "or renewal";

(b) in paragraph (6) after "to be registered" insert "in Part 1 of the register"; and

(c) in paragraph (11) after "extension" insert "or renewal".

(12) In Article 60 (appeals to the court of summary jurisdiction)—

(a) in paragraph (1)(a) after "extension" insert "or renewal"; and

(b) in paragraph (3) after "to be registered" insert "in Part 1 of the register,".

(13) In Article 69(1) (power to alter registration period) after "Regulations may" insert ", in respect of Part 1 of the register,".

(14) In Article 70 (evidence of registration)—

(a) for paragraph (2) substitute—

"(2) If at any time a person who is not registered in Part 1 or 2 of the register—

(a) displays a certificate or other item prescribed under paragraph (1) for use by persons registered in that Part;

(b) uses a title or other description prescribed under paragraph (1)(b) for use by such persons; or

(c) uses a title, certificate or other description implying that he is registered in that Part,

he is guilty of an offence unless he proves that he did not know, and did not have reasonable cause to believe, that he was not registered in Part 1 or, as the case may be, Part 2 of the register at that time.";

(b) in paragraph (3)(a) after "paragraph(1)(b)" insert "for use by other persons registered in either Part of the register";

(c) after paragraph (3)(a) omit "or";

(d) after paragraph (3)(b) add—

"; or

(c) uses a title, certificate or other description, in relation to any relevant person who is not appropriately registered in either Part of the register, implying that the relevant person is appropriately registered,".

Amendment of the Road Traffic (Amendment) Act (Northern Ireland) 2016

4. Section 17(4)(b) of the Road Traffic (Amendment) Act (Northern Ireland) 2016 (amendment of Article 19D of the Road Traffic (Northern Ireland) Order 1981 as respects approved programmes of training: category B motor vehicles and motor bicycles) is amended as follows—

(a) in inserted paragraph (1ZB)(a)(i) after "approved driving instructor" insert ", EU temporary driving instructor";

(b) in inserted paragraph (1ZB)(a)(ii) after "approved motorcycle instructor" insert ", EU temporary motorcycle instructor";

(c) in inserted paragraph (1ZB)(a)(iii) after "approved motorcycle instructor" insert "or an EU temporary motorcycle instructor"; and

(d) in inserted paragraph (1ZB)(b) for "and "approved motorcycle instructor"" substitute ", approved motorcycle instructor, EU temporary driving instructor and EU temporary motorcycle instructor".

PART 3

Amendment of subordinate legislation

Amendment of the Motor Vehicles (Driving Licences) Regulations (Northern Ireland) 1996

5.—(1) The Motor Vehicles (Driving Licences) Regulations (Northern Ireland) 1996(**8**) are amended in accordance with paragraphs (2) to (9).

(2) In regulation 2(1) (interpretation)—

(a) for the definition of "approved motorcycle instructor" substitute—

""approved motorcycle instructor" means a motorcycle instructor whose name is registered in Part 1 of the register."; and

(b) after the definition of "dual purpose vehicle" insert—

""EU temporary motorcycle instructor" means a motorcycle instructor registered in Part 2 of the register".

(3) In regulation 12 (conditions attached to provisional licences)—

(**8**) S.R. 1996 No. 542 relevant amending regulations are S.R. 1997 No. 383, S.R. 2003 Nos.64 and 371, S.R. 2008 No. 418, S.R. 2009 No. 14 and S.R. 2011 No. 21