STATUTORY RULES OF NORTHERN IRELAND

# 2010 No. 227

# ROAD TRAFFIC AND VEHICLES

## The Motor Vehicles (Driving Instruction) Regulations (Northern Ireland) 2010

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| *Made - - - -* | *28th June 2010* |
| *Coming into operation* | *2nd August 2010* |

The Department of the Environment makes the following Regulations, in exercise of the powers conferred upon it by Articles 48(1), (2), (4) and (6), 50, 51(1), 52(1), (2), (3), (4), (6) and (7), 55(4), 56(1) and (3), 57(1) and (2), 62(1) and (2), 70(1), 75, 76 and 77 of the Road Traffic (Northern Ireland) Order 2007(**1**):

## PART 1

## PRELIMINARY

### Citation and commencement

**1.** These Regulations may be cited as the Motor Vehicles (Driving Instruction) Regulations (Northern Ireland) 2010 and shall come into operation on 2nd August 2010.

### Interpretation

**2.**—(1) In these Regulations—

"approved driving instructor" means a person whose name is entered in the register;

"certificate" means a document as shown in Schedule 5, issued to an Approved Driving Instructor as evidence of registration;

"community licence" means a document issued in respect of a member State other than the United Kingdom by an authority of that or another member State (including the United Kingdom) authorising the holder to drive a motor vehicle, not being—

(a) a document containing a statement to the effect that that or a previous document was issued in exchange for a document issued in respect of a State other than an EEA State;

(**1**) S.I. 2007/916 (N.I. 10)

(b) a document in any of the forms for an international driving permit annexed to the Paris Convention on Motor Traffic of 1926, the Geneva Convention on Road Traffic of 1949 or the Vienna Convention on Road Traffic of 1968; or

(c) a document issued for a purpose corresponding to that mentioned in Article 13(2) of the Road Traffic (Northern Ireland) Order 1981;

"continued ability and fitness test" means the test of continued ability and fitness to give instruction in the driving of motor cars referred to in regulation 4(2) and the nature and content of which is prescribed in regulation 13;

"Department" means the Department of the Environment;

"driving ability and fitness test" means the practical test of ability and fitness to drive referred to in the definition of "examination" and the nature of which is prescribed in regulation 9;

"examination" means the examination of ability to give instruction in the driving of motor cars and for the purpose of these Regulations shall consist of the test of driving theory and hazard perception, the driving ability and fitness test and the instructional ability and fitness test;

"examiner", in relation to part of the examination or the continued ability and fitness test, means an officer of the Department appointed to conduct that part of the examination or that test;

"instructional ability and fitness test" means the practical test of ability and fitness to give instruction in the driving of motor cars referred to in the definition of "examination" and the nature of which is prescribed in regulation 10;

"motor car" means a motor vehicle (other than an invalid carriage or motor cycle)—

(a) which is not constructed or adapted to carry more than nine persons inclusive of the driver; and

(b) which has a maximum gross weight not exceeding 3.5 tonnes;

"the Order of 1981" means the Road Traffic (Northern Ireland) Order 1981(**2**);

"the Order of 1996" means the Road Traffic Offenders (Northern Ireland) Order 1996(**3**);

"the Order of 2007" means the Road Traffic (Northern Ireland ) Order 2007(**4**);

"the Regulations of 2004" means the Motor Cars (Driving Instruction) Regulations (Northern Ireland) 2004(**5**);

"theory test" means the test of driving theory and hazard perception referred to in the definition of "examination" the nature of which is prescribed in regulation 8; and

"trainee licence" means a licence granted by the Department in accordance with regulations made under Article 135 of the Order of 1981 for the purpose of gaining experience in giving driving instruction for motor vehicles.

(2) In these Regulations a reference to a part of the examination is a reference to one of the three parts of the examination set out in the definition of "examination" in paragraph (1).

(3) These Regulations shall apply to driving instruction in relation to motor cars.

(**2**) S.I. 1981/154 (N.I. 1)
(**3**) S.I. 1996/1320 (N.I. 10)
(**4**) S.I. 2007/916 (N.I. 10)
(**5**) S.R. 2004 No. 179

# PART 2

## REGISTRATION

### Register

**3.** The register shall contain the names and addresses of persons approved by the Department as qualified to give instruction in the driving of motor cars and shall be compiled on behalf of the Department and maintained by the Registrar.

### Registration

**4.**—(1) The Registrar shall enter in the register the name of a person who duly applies for the entry of his name therein if that person satisfies the Registrar in relation to the following conditions—

(a) that he has passed the examination;

(b) that application is made within one year of passing the examination;

(c) that he is the holder of a current licence of one of the following kinds, that is to say—

(i) a current licence to drive a motor car granted under Article 13(1) of the Order of 1981(**6**);

(ii) a current licence to drive a motor car granted under the corresponding law in force in Great Britain; or

(iii) a Community licence by which he is authorised to drive a motor car in Northern Ireland,

and that, during the period of six years ending with the day on which the application is made, one or more of the following requirements have been satisfied in relation to him for the periods amounting in the aggregate to at least four years—

(aa) he has held a current licence of one of the kinds aforesaid,

(bb) after having passed the test of competence prescribed under Article 5(1) of the Order of 1981 or, as the case may be, the law for the time being in force in Great Britain corresponding to that Article, to drive a motor vehicle, he has held a current provisional licence to drive a motor vehicle,

(cc) he has held a current foreign licence, that is to say, a document issued under the law of a country or territory other than an EEA state (within the meaning of the Order of 1981) authorising the holder to drive a motor vehicle in that country;

(d) that he has not, during any part of the period of four years ending with the day on which the application is made, been disqualified under Article 35 or 41 of the Order of 1996 from holding or obtaining a licence granted under Article 13(1) of the Order of 1981 or under the corresponding law in Great Britain; and

(e) apart from the fulfilment of the foregoing conditions that he is a fit and proper person to have his name entered in the register.

(2) The entry or retention of a person's name in the register shall be subject to the condition that so long as the name is therein that person will, if at any time so required by the Registrar, undergo a practical test of his continued ability and fitness to give instruction in the driving of motor cars as set out in regulation 13.

(**6**) S.I. 1981/154 (N.I. 1) Article 13(1) as amended by S.I. 1991 (N.I. 3), S.R. 1996 No.426, S.I. 2003 (N.I. 16), 1998 (N.I. 7), 2003 (N.I. 16) and S.R. 2002 No. 374

**Extension of registration**

**5.**—(1) A person may apply to the Registrar for an extension of his registration under Article 56(1) of the Order of 2007 no later than 4 weeks before his registration is terminated under Article 55(1) of that Order.

(2) The prescribed requirements as to which the Registrar must be satisfied before extending the registration of an applicant under Article 56(3) of the Order of 2007 are—

(a) that he has not refused to undergo a test such as is mentioned in regulation 13 during the previous period of registration;

(b) that his ability and fitness to give instruction in the driving of motor cars continue, having regard to any such test which he has undergone during the said period, to be of a satisfactory standard;

(c) that he has not during any part of the said period been disqualified under Article 35 or 41 of the Order of 1996 from holding or obtaining a licence to drive a motor vehicle granted under Article 13(1) of the Order of 1981 or under the corresponding law in Great Britain;

(d) that he is the holder of a current licence of one of the kinds mentioned in regulation 4(1)(c); and

(e) that apart from the fulfilment of the foregoing conditions he continues to be a fit and proper person to have his registration extended.

**Termination of registration**

**6.**—(1) The prescribed conditions as to which the Registrar must be satisfied before terminating the registration of a person under Article 57(1) of the Order of 2007 are—

(a) that he did not hold a current licence of one of the kinds mentioned in regulation 4(1)(c);

(b) that he was disqualified under Article 35 or 41 of the Order of 1996 from holding or obtaining a licence to drive a motor vehicle granted under Article 13(1) of the Order of 1981 or under the corresponding law in Great Britain;

(c) that he refused to undergo a test such as is mentioned in regulation 13;

(d) that he failed to appear for such a test on more than two occasions;

(e) that he failed to pass such a test; or

(f) that he ceased to be a fit and proper person to have his name included in the register.

(2) Where a person whose registration has been terminated under Article 57(1) applies under Article 51(2) of the Order of 2007 to be registered again and either—

(a) the application is made after the end of the period of one year beginning with the date on which registration was terminated; or

(b) his registration was terminated on the grounds that he has failed to pass such a test as is mentioned in regulation 13,

the Registrar shall not regard the condition specified in sub-paragraph (a) of regulation 4(1) as fulfilled unless he is satisfied that that person has again passed the examination mentioned in that sub-paragraph since the date on which his registration was terminated.

(3) A person whose registration was terminated under Article 55(1) of the Order of 2007 who applies to be registered shall be required again to pass the examination unless his application is made before the end of a period of one year from the date the registration was terminated.

# PART 3

## EXAMINATION OF ABILITY TO GIVE INSTRUCTION

### General provisions

**7.**—(1) A person who desires to submit himself for any part of the examination shall supply the Registrar with such particulars as the Department may determine.

(2) Where a person has passed the theory test (whether before or after these Regulations are made) he shall not be eligible to take it again during the following two years.

(3) Where a person has failed the theory test on his third attempt he shall not be eligible to take it again for a period of two years commencing on the date of the first attempt.

(4) Subject to the provisions of this regulation, a person shall be regarded as having passed the examination only if the following conditions are fulfilled in his case—

(a) he has passed the three parts of the examination in the following order:

(i) the theory test and hazard perception test;

(ii) the driving ability and fitness test; and

(iii) the instructional ability and fitness test;

(b) he passed the driving ability and fitness test on his first, second or third attempt after he had passed the theory test;

(c) within two years after passing the theory test and having passed the driving ability and fitness test he made an application to take the instructional ability and fitness test; and

(d) he passed the instructional ability and fitness test on his first, second or third attempt after he had passed the theory test, and on a date appointed by the Registrar in respect of an application made in accordance with sub-paragraph (c).

(5) For the purposes of this regulation—

(a) where a person has commenced the driving ability and fitness test or the instructional ability and fitness test and does not complete the test, the person shall be treated as having failed the test in question unless the Registrar is satisfied that the person had a reasonable excuse for not completing that test;

(b) subject to sub-paragraph (c), a reference to the passing of the theory test or the driving ability and fitness test (including paragraph (4)(a)) shall, in relation to a person who has passed that examination or test (as the case may be) on more than one occasion, be read as a reference to the last of those occasions; and

(c) if a person takes the theory test on an occasion when he is not eligible to take it he shall not in any circumstances be regarded as having passed on that occasion.

(6) For the purposes of this regulation a person shall be deemed to have made an application on the date that his application and the fee prescribed by these Regulations are received by the Registrar.

### Theory test and hazard perception test

**8.**—(1) The theory test shall be conducted in two parts, one part being the test of driving theory described in Schedule 1 and the other being the test of hazard perception as described in paragraph (4).

(2) The candidate must take the test of hazard perception immediately after taking the test of driving theory.