STATUTORY RULES OF NORTHERN IRELAND

2004 No. 179

ROAD TRAFFIC AND VEHICLES

Motor Cars (Driving Instruction) Regulations (Northern Ireland) 2004

Made - - - -	*9th April 2004*
Coming into operation	*5th May 2004*

The Department of the Environment, in exercise of the powers conferred upon it by Articles 132(2), 135 and 218(1) of the Road Traffic (Northern Ireland) Order 1981(**1**) and all other powers enabling it in that behalf, and with the approval of the Department of Finance and Personnel(**2**) as regards regulation 25, hereby makes the following Regulations:

PART 1

PRELIMINARY

Citation and commencement

1. These Regulations may be cited as the Motor Cars (Driving Instruction) Regulations (Northern Ireland) 2004 and shall come into operation on 5th May 2004.

Interpretation

2.—(1) In these Regulations –

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

"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 a member State, or

(**1**) S.I.1981/154 (N.I. 1); *see* Article 2(2) for the definition of "the Department"
(**2**) Formerly the Department of Finance. *see* S.I. 1982/338 (N.I. 6)Art. 3

(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;

"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 5(3) and the nature and content of which is prescribed in regulation 15;

"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 11;

"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 12;

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

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

"the register" means the register of approved driving instructors referred to in Article 132(1) of the Order of 1981;

"the Registrar" means the officer of the Department by whom the register is, on behalf of the Department, compiled and maintained;

"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 10; and

"trainee licence" means a licence to give driving instruction granted under Article 135(1) of the Order of 1981;

(2) In these Regulations a reference to a part of the examination is a reference to one of the 3 parts of the examination set out in the definition of "examination" in paragraph (1).

PART 2

REGISTRATION

Application for registration

3. Applications for registration in the register shall be made in such form and contain such information as the Department may determine.

Register

4. 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.

(**3**) S.I. 1996/1320 (N.I. 10)

Registration

5.—(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(**4**);

(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 Registrar shall, on making a decision on an application under paragraph (1), give notice in writing of the decision to the applicant which, in the case of a decision to refuse the application, shall state the grounds for the refusal.

(3) The entry or retention or renewal thereof 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 15.

Period of registration

6. The period of registration shall be four years beginning with the date on which the entry of the name was made.

(**4**) Articles 3 to 19E were substituted by Sch. 1 to the Road Traffic (Amendment) (Northern Ireland) Order 1991 (S.I. 1991 No. 197 (N.I. 3))

Renewal of registration

7.—(1) A person shall be entitled on payment of the fee specified in regulation 25 to have the entry of his name in the register renewed for a further period of four years if he satisfies the Registrar that –

(a) he has not refused to undergo a test such as is mentioned in regulation 15 during the previous period of registration;

(b) 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) 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) he is the holder of a current licence of one of the kinds mentioned in regulation 5(1)(c); and

(e) apart from the fulfilment of the foregoing conditions he continues to be a fit and proper person to have the entry of his name in the register renewed.

(2) Where the Registrar decides to refuse to renew an entry of a name in the register he shall give written notice of the decision to the person concerned and shall state the grounds for the refusal.

Removal of names from the register

8.—(1) The Registrar may remove the name of a person from the register if the Registrar is satisfied in a case where the entry has not been renewed under regulation 7 that at any time since the entry of the name was made, or in a case where the entry of the name has been renewed that at any time since it was last renewed any of the following conditions were fulfilled in the case of that person –

(a) that he did not hold a current licence of one of the kinds mentioned in regulation 5(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 15;

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

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

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

(g) that the entry of his name in the register, or the renewal of the entry was made by mistake or procured by fraud.

(2) Where a person whose name has been removed from the register under this regulation applies under regulation 3 for his name to be entered again in the register and either –

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

(b) his name was removed on the grounds that he has failed to pass such a test as is mentioned in regulation 5(3),

the Registrar shall not regard the condition specified in paragraph (a) of regulation 5(1) as fulfilled unless he is satisfied that that person has again passed the examination mentioned in that paragraph since the date on which his name was removed from the register.

(3) Where the Registrar decides to remove the name of a person from the register he shall give written notice of the decision to the person concerned and shall state the grounds for the removal.

(4) The name of a person shall be removed from the register at the end of a period of four years from the date on which the entry was made unless an application for renewal is made before the end of that period.

PART 3

EXAMINATION OF ABILITY TO GIVE INSTRUCTION

General provisions

9.—(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 2 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 2 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;

(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

10.—(1) The theory test shall be conducted in two parts, one part being the test of driving theory described in paragraph (3) and the other being the hazard perception test described in paragraph (5).