STATUTORY RULES OF NORTHERN IRELAND

2003 No. 537

ROAD TRAFFIC AND VEHICLES

Motor Vehicles (Construction and Use) (Amendment No. 5) Regulations (Northern Ireland) 2003

Made - - - -	*17th December 2003*
Coming into operation	*1st February 2004*

The Department of the Environment, in exercise of the powers conferred on it by Articles 55(1) and 110(2) of the Road Traffic (Northern Ireland) Order 1995(**1**) and of every other power enabling it in that behalf, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Motor Vehicles (Construction and Use) (Amendment No. 5) Regulations (Northern Ireland) 2003 and shall come into operation on 1st February 2004.

Amendment of the Motor Vehicles (Construction and Use) Regulations (Northern Ireland) 1999

2. After regulation 125 of the Motor Vehicles (Construction and Use) Regulations (Northern Ireland) 1999(**2**), there shall be inserted the following –

"**Mobile telephones**

125A.—(1) Subject to paragraph (5), a person shall not drive a motor vehicle on a road if he is using –

(a) a hand-held mobile telephone; or

(b) a hand-held device of a kind specified in paragraph (4).

(2) Subject to paragraph (5), a person shall not cause or permit any other person to drive a motor vehicle on a road while that other person is using –

(a) a hand-held mobile telephone; or

(b) a hand-held device of a kind specified in paragraph (4).

(**1**) S.I.1995/2994 (N.I. 18); *see* Article 2(2) for the definition of "the Department"
(**2**) S.R. 1999 No. 454; to which there are amendments not relevant to these Regulations

(3) Subject to paragraph (5), a person shall not supervise a holder of a provisional licence if the person supervising is using –

(a) a hand-held mobile telephone; or

(b) a hand-held device of a kind specified in paragraph (4),

at a time when the provisional licence holder is driving a motor vehicle on a road.

(4) A device referred to in paragraphs (1)(b), (2)(b) and (3)(b) is a device, other than a two-way radio, which performs an interactive communication function by transmitting and receiving data.

(5) A person does not contravene a provision of this regulation if, at the time of the alleged contravention –

(a) he is using the telephone or other device to call the police, fire, ambulance or other emergency service on 112 or 999;

(b) he is acting in response to a genuine emergency; and

(c) it is unsafe or impracticable for him to cease driving in order to make the call (or, in the case of an alleged contravention of paragraph (3)(b), for the provisional licence holder to cease driving while the call is being made).

(6) For the purposes of this regulation –

(a) a mobile telephone or other device is to be treated as hand-held if it is, or must be, held at some point during the course of making or receiving a call or performing any other interactive communication function;

(b) a person supervises the holder of a provisional licence if he does so pursuant to a condition imposed on that licence holder prescribed under Article 13(3)(a) of the Road Traffic (Northern Ireland) Order 1981(**3**) (grant of provisional licence);

(c) "interactive communication function" includes the following –

(i) sending or receiving oral or written messages,

(ii) sending or receiving facsimile documents,

(iii) sending or receiving still or moving images, and

(iv) providing access to the internet;

(d) "two-way radio" means any wireless telegraphy apparatus which is designed or adapted –

(i) for the purpose of transmitting and receiving spoken messages, and

(ii) to operate on any frequency other than 880 MHz to 915 MHz, 925 MHz to 960 MHz, 1710 MHz to 1785 MHz, 1805 MHz to 1880 MHz, 1900 MHz to 1980 MHz or 2110 MHz to 2170 MHz; and

(e) "wireless telegraphy" has the same meaning as in section 19(1) of the Wireless Telegraphy Act 1949(**4**).".

(**3**) S.I. 1981/154 (N.I. 1); Article 13 was substituted by Schedule 1 to S.I. 1991/197 (N.I. 3), Article 3, to which there are amendments not relevant to these Regulations

(**4**) 1949 c. 54