STATUTORY RULES OF NORTHERN IRELAND

1998 No. 377

ROAD TRAFFIC AND VEHICLES

New Drivers (Appeals Procedure) Regulations (Northern Ireland) 1998

Made - - - -	*2nd November 1998*
Coming into operation	*14th December 1998*

The Department of the Environment, in exercise of the powers conferred on it by Article 7 of, and paragraph 11 of Schedule 1 to, the Road Traffic (New Drivers) (Northern Ireland) Order 1998(**1**) and of every other power enabling it in that behalf and after consultation with the Lord Chancellor in accordance with Article 7(8) of, and paragraph 11(3) of Schedule 1 to, that Order, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the New Drivers (Appeals Procedure) Regulations (Northern Ireland) 1998 and shall come into operation on 14th December 1998.

(2) In these Regulations—

"appellate court" means a county court or the Court of Appeal, as the case may be;

"the Order" means the Road Traffic (New Drivers) (Northern Ireland) Order 1998;

"relevant appeal" means an appeal against—

(a) a conviction, or

(b) an order of a court for the endorsement of a licence,

which is, or forms part of, the basis for the revocation of the licence or a test certificate.

Licences granted pending appeal

2.—(1) There is prescribed for the purposes of Article 7(1) of the Order (duration of licences granted without re-testing pending appeal) a period expiring on the date on which the revoked licence would have expired if it had not been revoked.

(2) Where the Department has—

(a) revoked a person's test certificate under paragraph 5(1) of Schedule 1 to the Order or revoked a person's licence and test certificate under paragraph 8(1) of that Schedule, and

(**1**) S.I.1998/1074 (N.I. 7); *see* Article 2(2) for the definition of "the Department"

(b) received notice that the person is making a relevant appeal,

it must, if that person surrenders to it any previous licence granted to him or provides an explanation for not surrendering it that the Department considers adequate, grant to that person a full licence in accordance with paragraph (3).

(3) A licence granted under paragraph (2) shall—

(a) have effect for the purposes of the Road Traffic Orders as if it were a licence granted under Part II of the Order of 1981(**2**);

(b) subject to Articles 9 and 70 to 79A of that Order, authorise the driving of all classes of vehicle which, immediately before his test certificate was revoked, the person was permitted to drive without observing the prescribed conditions; and

(c) subject to paragraph (4), be for a period expiring on the date on which a licence granted under Part II of that Order would have expired.

(4) A licence granted under paragraph (2) shall be treated as if revoked if—

(a) following the appeal, the penalty points taken into account for the purposes of Article 4(1) of the Order are not reduced to a number smaller than six; or

(b) the appeal is abandoned.

Notices of appeal

3.—(1) Subject to paragraphs (2) and (3), notice of a relevant appeal shall be given to the Department by—

(a) the magistrates' court in which the case was heard; or

(b) the Court of Appeal in an appeal from the Crown Court.

(2) Notice of a relevant appeal from a magistrates' court or county court by case stated shall be given to the Department by the Court of Appeal.

(3) Notice of a further appeal from a decision of an appellate court shall be given to the Department by the appellate court from which the appeal is made.

(4) A notice pursuant to this regulation shall be given—

(a) in the case of an appeal by case stated, as soon as reasonably practicable after the day on which the case is lodged in the Court of Appeal;

(b) in the case of any other appeal—

(i) where leave to appeal or abridgement of time is necessary, as soon as reasonably practicable after the court has granted such leave or abridgement, or

(ii) in any other case, as soon as reasonably practicable after notice of appeal is duly given by the appellant.

Notice of determination or abandonment of appeal

4.—(1) Notice of the determination of a relevant appeal shall be given to the Department by—

(a) the Court of Appeal—

(i) in an appeal from the Crown Court, or

(ii) in an appeal from a magistrates' court or county court by case stated;

(b) the magistrates' court in which the case was heard, in an appeal to a county court; or

(**2**) Part II was substituted by S.I. 1991/197 (N.I. 3), Schedule 1 and amended by S.I. 1995/2994 (N.I. 18), Schedule 3, Part I; and S.I. 1996/1320 (N.I. 10), Schedule 3, Part I