



Road Traffic Act 1972

1972 CHAPTER 20

PART V

DRIVING INSTRUCTION

126 Driving instruction for payment to be given only by registered or licensed persons

- (1) No instruction, for the giving of which payment of money or money's worth is, or is to be, made by, or in respect of, the person to whom the instruction is given, shall be given in the driving of a motor car unless the name of the person giving the instruction is in the register of approved instructors established in pursuance of section 23 of the Road Traffic Act 1962 (hereafter in this Part of this Act referred to as " the register ") or he is the holder of a current licence granted under this Part of this Act authorising him to give such instruction.
- (2) Instruction in the driving of a motor car, being instruction which is given free of charge, to a person who is not the holder of a current licence to drive a motor vehicle granted under Part III of this Act (other than a provisional licence within the meaning of that Part), by, or in pursuance of arrangements made by, a person carrying on business in the supply of motor cars, and in connection with the supply of a motor car in the course of that business, shall, for the purposes of subsection (1) above, be deemed to be given for payment of money by the person to whom the instruction is given.
- (3) If instruction is given in contravention of subsection (1) above, the person by whom it is given, and, if that person is employed by another to give that instruction, that other, as well as that person, shall be guilty of an offence.
- (4) In proceedings against a person for an offence under subsection (3) above it shall be a defence for him to prove that he did not know, and had no reasonable cause to believe, that his name or, as the case may be, that of the person employed by him, was not in the register at the material time.
- (5) Any reference in this Part of this Act to a current licence is a reference to a licence which has not expired and has not been cancelled, revoked or suspended.

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127 Exemption of police instructors from prohibition imposed by s.126

- (1) Section 126(1) of this Act shall not apply to the giving of instruction by a police instructor in pursuance of arrangements made by a chief officer of police or, under the authority of a chief officer of police, in pursuance of arrangements made by a local authority.
- (2) In this section—
 - " police instructor " means a person who is—
 - (a) a member of a police force whose duties consist of or include, or have consisted of or included, the giving of instruction in the driving of motor cars to persons being members of a police force, or
 - (b) a civilian employed by a police authority for the purpose of giving such instruction to such persons;
 - " local authority " means the council of a county, county borough or county district, the Greater London Council, the council of a London borough or the Common Council of the City of London.
- (3) In the application of subsection (2) above to the metropolitan police, for the reference to a civilian employed by a police authority, there shall be substituted a reference to a civilian employed under the Commissioner of Police of the Metropolis or the Receiver for the Metropolitan Police District.
- (4) In the application of this section to Scotland " local authority " means a county council or the town council of a burgh.

128 The register and registration and duration thereof

- (1) The compilation and maintenance of the register shall continue by virtue of this Act, and an application for the entry of a person's name in the register shall be made, in manner determined by the Secretary of State, accompanied by particulars so determined, to the officer of the Secretary of State by whom, on behalf of the Secretary of State, the register is compiled and maintained (hereafter in this Part of this Act referred to as " the Registrar "); and the Registrar shall, on payment of such fee, if any, as may be prescribed by regulations, 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 that the following conditions are fulfilled in his case, that is to say,—
 - (a) that he has passed such examination of ability to give instruction in the driving of motor cars as may be so prescribed;
 - (b) that he is the holder of a current licence of one of the following kinds, that is to say,—
 - (i) a licence to drive a motor vehicle granted under Part III of this Act (not being a provisional licence within the meaning of that Part); and
 - (ii) a licence to drive a motor vehicle (not being a licence corresponding to such a provisional licence as aforesaid) granted under the law in force in Northern Ireland;and, at no time during the period of four years ending with the day on which the application is made, did he not hold one or other of the following licences, namely a current licence of one of the kinds aforesaid and a current foreign licence, that is to say, a document issued under the law of a country outside the United Kingdom authorising the holder to drive a motor vehicle in that country;

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- (c) that he has not, during any part of the said period, been disqualified under section 93 of this Act or section 5 of the Road Traffic Act 1962 for holding or obtaining a licence to drive a motor vehicle granted under Part III of this Act or, as the case may be, Part II of the Road Traffic Act 1960; and
 - (d) that, apart from fulfilment of the foregoing conditions, he is a fit and proper person to have his name entered in the register.
- (2) The entry 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 required by the Registrar, undergo the test prescribed by regulations of continued ability and fitness to give instruction in the driving of motor cars.
- (3) Regulations may provide that persons of such class as may be specified therein shall be exempt from the condition mentioned in subsection (1)(a) above as regards such part of the examination mentioned in that paragraph as may be so specified.
- (4) If the Secretary of State is satisfied that satisfactory provision is made by the law of Northern Ireland for the establishment of a register containing the names of persons qualified under that law to give instruction in the driving of motor cars, a person who satisfies the Registrar that his name is in the register established under that law and that he is resident in Great Britain shall be exempt from the condition specified in subsection (1)(a) above.
- (5) The Registrar shall, on making a decision on an application under subsection (1) above, 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.
- (6) Unless previously removed under the following provisions of this Part of this Act, the name of a person shall be removed from the register at the end of the period of four years beginning with the first day of the month next after that in which the entry of the name was made, but if an application for the retention of the name in the register is made under section 129 of this Act before the end of that period, the name shall not be removed except in pursuance of a decision of the Registrar having effect under that section.
- (7) A person whose name has been removed from the register under subsection (6) above who applies under subsection (1) above for his name to be entered again in the register, shall be required again to pass the examination mentioned in subsection (1)(a) above unless the application is made before the end of the period of one year beginning with the end of the said period of four years.

129 Extension of duration of registration

- (1) If, before the end of the period of four years at the end of which the name of a person is, by section 128(6) of this Act, to be removed from the register, he makes application to the Registrar, in manner determined by the Secretary of State, accompanied by particulars so determined, for the retention of his name in the register for a further period of four years, he shall be entitled, on payment of such fee, if any, as may be prescribed by regulations, to have his name retained therein for that further period, if he satisfies the Registrar that the following conditions are fulfilled in his case, that is to say,—
- (a) that he has not refused to undergo any such test as is mentioned in section 128(2) of this Act which he has been required to undergo during the period first mentioned in this subsection;

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- (b) that his ability and fitness to give instruction in the driving of motor cars continue, having regard to any such test or tests as aforesaid which he has undergone during the said period, to be of a satisfactory standard ;
 - (c) that he is the holder of a current licence of one of the kinds mentioned in sub-paragraph (i) and sub-paragraph (ii) of section 128(1)(b) of this Act, and at no time during the said period has he held no such current licence;
 - (d) that he has not during any part of the said period been disqualified under section 93 of this Act or section 5 of the Road Traffic Act 1962 for holding or obtaining a licence to drive a motor vehicle granted under Part III of this Act or, as the case may be, Part II of the Road Traffic Act 1960, and
 - (e) that, apart from fulfilment of the foregoing conditions, he continues to be a fit and proper person to have his name entered in the register.
- (2) The retention of a person's name under this section shall be subject to the condition mentioned in section 128(2) of this Act.
- (3) Before refusing an application under subsection (1) above, the Registrar shall give to the applicant written notice stating that he is considering the refusal of the application and giving particulars of the grounds on which he is considering it; and the applicant may, within the period of twenty-eight days beginning with the day on which the notice is given, make representations with respect to the proposed refusal; and the Registrar shall not decide to refuse the application until after the expiration of the said period, and before deciding whether or not to do so, he shall take into consideration any such representations made by the applicant within the said period.
- (4) The Registrar, on making a decision under subsection (3) above, shall give notice in writing of the decision to the person concerned, and a decision to refuse an application shall take effect—
- (a) where no appeal under the following provisions of this Part of this Act is brought against the decision within the time limited for the appeal, on the expiration of that time;
 - (b) where such an appeal is brought and is withdrawn or struck out for want of prosecution, on the withdrawal or striking out of the appeal;
 - (c) where such an appeal is brought and not withdrawn or struck out as aforesaid, if and when the appeal is dismissed, and not otherwise.
- (5) Where a person's name is retained in the register under subsection (1) above, that subsection and section 128(6) of this Act shall have effect in relation to him, with respect to each successive period of four years, as if any reference therein to the first day of the month next after that in which the entry of a person's name in the register was made were a reference to the day with which began the last further period for which his name was retained under subsection (1) above.

130 Removal of names from register

- (1) The Registrar may remove the name of a person from the register if the Registrar is satisfied, in a case where the name has not been retained therein under section 129 of this Act, that, at any time since the entry of the name was made, or, in a case where the name has been retained as aforesaid, that, at any time since it was last retained, any of the following conditions was fulfilled in the case of that person, that is to say—
- (a) that he held neither a current licence of a kind mentioned in sub-paragraph (i) of section 128(1)(b) of this Act nor one of a kind mentioned in sub-paragraph (ii) of the said section 128(1)(b);

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- (b) that he was disqualified under section 93 of this Act or section 5 of the Road Traffic Act 1962 for holding or obtaining a licence to drive a motor vehicle under Part III of this Act or, as the case may be, Part II of the Road Traffic Act 1960;
 - (c) that he refused to undergo a test such as is mentioned in section 128(2) of this Act;
 - (d) that he failed to pass such a test;
 - (e) that he ceased, apart from fulfilment of any of the foregoing conditions, to be a fit and proper person to have his name included in the register;
- or if the entry of his name in the register, or the retention of his name therein, was made by mistake or procured by fraud.
- (2) Before removing the name of a person from the register under this section, the Registrar shall give to the person concerned written notice stating that he is considering the removal and giving particulars of the grounds on which he is considering it; and that person may, within the period of twenty-eight days beginning with the day on which the notice is given, make representations with respect to the proposed removal; and the Registrar shall not decide to remove the name from the register until after the expiration of the said period and, before deciding whether or not to do so, shall take into consideration any such representations made by the person concerned within the said period.
 - (3) The Registrar shall, on making a decision to remove a name from the register, give notice in writing of the decision to the person concerned, and section 129(4) of this Act shall apply for the purpose of determining when (if at all) the decision takes effect as it does for the purpose of determining when (if at all) a decision to refuse an application under the said section 129 takes effect.

131 Licences

- (1) For the purpose of enabling a person to acquire practical experience in giving instruction in driving motor cars with a view to undergoing the examination referred to in section 128(1)(a) of this Act, the Registrar shall, subject to subsection (2) below, on application made to him by that person in manner determined by the Secretary of State, accompanied by particulars so determined and on payment of such fee, if any, as may be prescribed by regulations, grant to the applicant a licence to give instruction in the driving of a motor car, being instruction the giving of which is restricted by section 126 of this Act, if the Registrar is satisfied that the conditions set out in paragraphs (b), (c) and (d) of the said section 128(1) are fulfilled in the case of the applicant.
- (2) The Registrar may refuse to grant a licence under this section to an applicant to whom two or more such licences have previously been issued.
- (3) The Registrar shall, on making a decision on an application under subsection (1) above, 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 of the refusal.
- (4) A licence under this section shall be in such form, in force for such period, and granted subject to such conditions, as may be prescribed by regulations.
- (5) Notwithstanding any provision of regulations made under subsection (4) above prescribing the period for which a licence is to be in force, where a person applies for a new licence in substitution for a licence held by him and current at the date of the application, the previous licence shall not expire until the commencement of the new

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licence, or, if the Registrar decides to refuse the application, until the time limited for an appeal under the following provisions of this Part of this Act against the decision has expired and, if such an appeal is duly brought, it is finally disposed of.

- (6) Before deciding to refuse an application for a new licence in substitution for a licence current at the date of the application, the Registrar shall give to the applicant written notice stating that he is considering the refusal and giving particulars of the grounds on which he is considering it; and the applicant may, within the period of fourteen days beginning with the day on which the notice is given, make representations with respect to the proposed refusal; and the Registrar shall not decide to refuse the application until after the expiration of the said period and, before deciding whether or not to do so, he shall take into consideration any such representations made within that period.
- (7) If a person to whom a licence under this section is granted fails to comply with any of the conditions subject to which it is granted, or if the Registrar is satisfied that, at any time since the licence was granted, any of the following conditions was fulfilled in the case of the said person, that is to say,—
- (a) that he held neither a current licence of a kind mentioned in sub-paragraph (i) of section 128(1)(b) of this Act nor one of a kind mentioned in sub-paragraph (ii) of the said section 128(1)(b); or
 - (b) that he was disqualified under section 93 of this Act or section 5 of the Road Traffic Act 1962 for holding or obtaining a licence to drive a motor vehicle under Part III of this Act or, as the case may be, Part II of the Road Traffic Act 1960; or
 - (c) that he ceased, apart from fulfilment of either of the foregoing conditions, to be a fit and proper person to have his name in the register;

or if the licence was granted by mistake or procured by fraud, the Registrar may revoke the licence, but before doing so he shall give to the said person written notice stating that he is considering the revocation and giving particulars of the grounds on which he is considering it; and that person may, within the period of fourteen days beginning with the day on which the notice is given, make representations with respect to the proposed revocation; and the Registrar shall not decide to revoke the licence until after the expiration of the said period and, before deciding whether or not to do so, he shall take into consideration any such representations made within that period.

- (8) The Registrar shall, on making a decision to revoke a licence granted under this section, give notice in writing of the decision to the person concerned, and section 129(4) of this Act shall apply for the purpose of determining when (if at all) the decision takes effect as it does for the purpose of determining when (if at all) a decision to refuse an application under the said section 129(1) takes effect.

132 Appeals

- (1) A person who is aggrieved by a decision of the Registrar—
- (a) to refuse an application for the entry of his name in the register, or
 - (b) to refuse an application for the retention of his name in the register, or
 - (c) to remove his name from the register,

may by notice in writing appeal to the Secretary of State within the period of twenty-eight days beginning with the day on which notice of the decision was given in accordance with the provisions of this Part of this Act, and a person who is aggrieved by a decision of the Registrar to refuse an application for the grant of a licence under

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the said Part or to revoke such a licence may, in such manner, so appeal within the period of fourteen days beginning with the said day.

- (2) On the appeal the Secretary of State shall have power to make such order for the grant or refusal of the application or, as the case may be, for the removal or the retention of the name in the register, or the revocation or continuation of the licence, as he may think fit; and an order for such refusal, removal or revocation may direct that an application by the appellant for the grant of a licence under this Part of this Act or for his name to be entered in the register shall not be entertained before the expiration of such period, not exceeding four years beginning with the day on which the order is made, as may be specified in the order.
- (3) Schedule 6 to this Act shall have effect in relation to an appeal under this section.

133 Examinations and tests of ability to give driving instruction

- (1) Regulations may make provision with respect to the nature of examinations of the ability of persons to give instruction in the driving of motor cars and tests of continued ability and fitness to give such instruction, to evidence of the results thereof and generally with respect thereto, and, in particular, but without prejudice to the generality of the foregoing, may provide—
 - (a) for such an examination to consist in part of a written examination and in part of a practical test of ability and fitness to drive and to instruct;
 - (b) for requiring a person submitting himself to any such practical test as aforesaid to provide a vehicle for the purposes of the test, being a vehicle in respect of which such conditions as may be specified in regulations are complied with;
 - (c) for requiring a person applying to submit himself for such an examination, or any part of such an examination, to pay to the Registrar such fee as may be specified in the regulations in relation to that examination or part;
 - (d) for preventing a person who, on any day, submits himself for such an examination and fails to pass it from being eligible to submit himself to another such examination before the expiration of the period of three months beginning with that day, or, if the regulations provide for an examination to consist of two such parts as are mentioned in paragraph (a) above, preventing a person who submits himself on any day for one of those parts, and fails to pass that part, from being eligible to submit himself again for that part before the expiration of the period of three months beginning with that day;
 - (e) for requiring a person who desires to submit himself for such an examination to supply the Registrar with such particulars as the Secretary of State may determine.
- (2) A magistrates' court acting for the petty sessions area in which a person who has submitted himself for an examination of ability to give instruction in the driving of motor cars resides or, if he resides in Scotland, the sheriff within whose jurisdiction he resides, shall have power on the application of that person to determine whether the examination was properly conducted in accordance with the regulations, and, if the regulations provide for the examination to consist of two parts, whether either of those parts was so conducted; and, if it appears to the court or sheriff that the examination, or, as the case may be, part, was not so conducted, the court or sheriff may order that the applicant shall be eligible to submit himself to another examination, or, as the case may be, to submit himself again for that part, before the expiration of the period of three months mentioned in subsection (1)(d) above in relation to the examination or,

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as the case may be, part, and may order that any fee payable by the applicant in respect of the examination or part shall not be paid, and if it has been paid, shall be repaid.

- (3) No appeal shall lie under section 132 of this Act in respect of any matter in respect of which an application may be made to a magistrates' court or a sheriff under subsection (2) above.

134 Power to alter conditions for entry or retention in, and removal from, register and grant or revocation of licences

Regulations may—

- (a) alter or add to the conditions as to which the Registrar is required by this Part of this Act to be satisfied for the entry of a name in the register, the retention of a name therein, the removal of a name therefrom, the grant of a licence and the revocation of a licence, or omit any of those conditions;
- (b) alter the period at the expiration of which a person's name which is entered or retained in the register after the coming into force of the regulation must, unless retained or further retained, be removed therefrom.

135 Power to prescribe form of certificate of registration, etc.

- (1) Regulations may prescribe all or any of the following, that is to say, a form of certificate for issue to persons whose names are in the register as evidence of their names' being therein, a form of badge for use by such persons and an official title for such use.

(2) If a person—

- (a) whose name is not in the register, takes or uses a title prescribed under this section, or wears or displays a badge or certificate so prescribed, or takes or uses any name, title, addition or description implying that his name is in the register, or
- (b) being a person carrying on business in the provision of instruction in the driving of motor vehicles, uses a title or description so prescribed in relation to any person employed by him whose name is not in the register, or issues any advertisement or invitation calculated to mislead with respect to the extent to which persons whose names are in the register are employed by him,

then, unless he proves that he did not know, and had no reasonable cause to believe, that his name, or, as the case may be, that of the person employed by him, was not in the register at the material time, he shall be guilty of an offence.

136 Surrender of certificate and licences

Where—

- (a) the name of a person to whom a certificate prescribed under section 135 of this Act has been issued is removed from the register in pursuance of this Part of this Act, or
 - (b) a licence granted under this Part of this Act to a person expires or is revoked,
- that person shall, if so required by the Registrar by notice in writing, surrender the certificate or licence, as the case may be, to the Registrar within the period of fourteen days beginning with that on which the notice is given, and if he fails to do so, he shall be guilty of an offence.

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137 Production of certificate and licences to constables and authorised persons

- (1) A person to whom a certificate prescribed under section 135 of this Act is issued, or to whom a licence under this Part of this Act is granted, shall, on being so required by a constable or any person authorised in writing by the Secretary of State in that behalf, produce the certificate or licence for examination.
- (2) Where the name of a person is removed from the register or a licence granted under this Part of this Act to a person expires or is revoked, then, if that person fails to satisfy an obligation imposed on him by section 136 of this Act, a constable or a person authorised as aforesaid may require him to produce any such certificate issued to him or the licence, and upon its being produced may seize it and deliver it to the Registrar.
- (3) If a person who is required under subsection (1) or (2) above to produce a document fails to do so, then, unless within five days, beginning with the day next after that on which the production of the document was so required, it is produced—
 - (a) where the requirement was made by a constable, at such police station as, at the time the production was required, may have been specified by the person required to produce the document,
 - (b) where the requirement was made by a person other than a constable, at such place as the person by whom the requirement was made may, at the time aforesaid, have specified,he shall be guilty of an offence.

138 Evidence by certificate as to registration and licences

- (1) A certificate signed by the Registrar and stating that, on any date,—
 - (a) a person's name was, or was not, in the register,
 - (b) the entry of a person's name was made in the register or a person's name was removed therefrom,
 - (c) a person was, or was not, the holder of a current licence under section 131 of this Act, or
 - (d) a licence under the said section 131 granted to a person came into force or ceased to be in force,shall be evidence, and in Scotland sufficient evidence, of the facts stated in the certificate in pursuance of this section.
- (2) A certificate stating as aforesaid and purporting to be signed by the Registrar shall be deemed to be so signed unless the contrary is proved.

139 Offences by corporations

Where a body corporate is guilty of an offence under this Part of this Act and the offence is proved to have been committed with the consent or connivance of, or to be attributable to neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, or a person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and liable to be proceeded against and punished accordingly.

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140 Service of notices

- (1) A notice authorised or required to be given by this Part of this Act to a person may be given by delivering it to him, or by leaving it at his proper address, or by sending it to him by post.
- (2) For the purposes of this section and of section 26 of the Interpretation Act 1889 in its application to this section, the proper address of a person shall be, in the case of a person whose name is included in the register, his address on the register, and in any other case, his usual or last known address.

141 Expenses and receipts

- (1) Any administrative expenses incurred by the Secretary of State in consequence of any provisions of this Part of this Act shall be defrayed out of moneys provided by Parliament.
- (2) Any sums received on account of fees payable by virtue of any provision of this Part of this Act shall be paid into the Consolidated Fund.

142 Regulations for purposes of Part V

The Secretary of State may make regulations for any purpose for which provision is by this Part of this Act authorised to be made by regulations, and in the said Part " regulations " means regulations made under this section.