

Status: Point in time view as at 08/06/2012.

Changes to legislation: Driving Instruction (Suspension and Exemption Powers) Act 2009 is up to date with all changes known to be in force on or before 03 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 1

Section 4(1)

TRANSITORY AMENDMENTS TO EXISTING REGIME

VALID FROM 06/07/2012

Suspension of registration

1 After subsection (7) of section 128 of the Road Traffic Act 1988 (c. 52) (as it has effect without the substitution of that section by Schedule 6 to the Road Safety Act 2006 (c. 49)) (removal of names from register) insert—

“(7A) The Registrar may suspend a person's registration if the Registrar—

- (a) has given, or is about to give, the person notice under subsection (4),
- (b) is considering whether to remove the person's name from the register, or has decided to remove the name but the decision is not yet in effect, and
- (c) believes that the person would pose a significant threat to the safety of members of the public if the person's registration were not suspended.

(7B) The Registrar must, on deciding to suspend a person's registration, give written notice of the decision to the person.

(7C) The decision to suspend takes effect on the giving of the notice.

(7D) No notice may be given under subsection (7B) before the notice under subsection (4) is given but the subsection (7B) notice may be included in the subsection (4) notice if the subsection (4) notice is still to be given when the decision to suspend is made.

(7E) A suspension under subsection (7A) is terminated if—

- (a) the Registrar decides not to remove the person's name from the register,
- (b) the Registrar decides to remove the person's name from the register but the decision has not taken effect and an appeal against the decision is successfully concluded,
- (c) the Registrar has not decided whether to remove the person's name from the register and the period of 75 days beginning with the giving of the subsection (4) notice has ended,
- (d) the person's name is removed from the register (whether under this section or otherwise), or
- (e) the Registrar decides to terminate the suspension.

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	<p>(7F) The Registrar must give written notice to a person of the fact that the person's suspension is terminated as mentioned in subsection (7E)(a) to (c) or (e).</p> <p>(7G) For the purposes of this Part of this Act the fact that a person's registration is suspended does not prevent the person's name from being in the register.”</p>
2	<p>(1) Section 123 of the Road Traffic Act 1988 (c. 52) (as it has effect without the substitution of that section by Schedule 6 to the Act of 2006) (driving instruction for payment to be given only by registered or licensed persons) is amended as follows.</p> <p>(2) In subsection (1)(a) (prohibition on giving paid instruction in the driving of a motor car when unregistered or unlicensed) after “register”)” insert “ and the registration is not suspended ”.</p> <p>(3) In subsection (5) (defence to offence of contravening the prohibition) after “time” insert “ , or (as the case may be) that the registration was at that time suspended ”.</p>
3	<p>After subsection (8) of section 127 of the Road Traffic Act 1988 (extension of duration of registration) insert—</p> <p>“(9) Sections 128(7A) to (7G) and 131A apply in relation to suspending a person's registration in connection with an application under subsection (1) above as if the references in sections 128(7A) to (7G) and 131A to—</p> <p>(a) a notice under section 128(4) were references to a notice under subsection (5) above, and</p> <p>(b) the removal of the person's name from the register were (or, in the case of section 128(7E)(d), included) references to the refusal of the person's application for the retention of the person's name in the register.”</p>
4	<p>In subsection (1) of section 18 of the Road Traffic Offenders Act 1988 (c. 53) (as it has effect without the substitution of paragraphs (a) to (d) of that subsection by Schedule 6 to the Act of 2006) (evidence by certificate as to registration of driving instructors and licences to give instruction), after paragraph (b), insert—</p> <p>“(ba) a person's registration was, or was not, suspended,”.</p>

VALID FROM 06/07/2012

Suspension of licences

5	<p>After subsection (6) of section 130 of the Road Traffic Act 1988 (as it has effect without the omission of that section by Schedule 6 to the Act of 2006) (revocation of licences) insert—</p> <p>“(7) The Registrar may suspend a person's licence if the Registrar—</p> <p>(a) has given, or is about to give, the person notice under subsection (3),</p> <p>(b) is considering whether to revoke the licence, or has decided to revoke the licence but the decision is not yet in effect, and</p>
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- (c) believes that the person would pose a significant threat to the safety of members of the public if the licence were not suspended.
- (8) The Registrar must, on deciding to suspend a person's licence, give written notice of the decision to the person.
- (9) The decision to suspend takes effect on the giving of the notice.
- (10) No notice may be given under subsection (8) before the notice under subsection (3) is given but the subsection (8) notice may be included in the subsection (3) notice if the subsection (3) notice is still to be given when the decision to suspend is made.
- (11) A suspension under subsection (7) is terminated if—
- (a) the Registrar decides not to revoke the person's licence,
 - (b) the Registrar decides to revoke the person's licence but the decision has not taken effect and an appeal against the decision is successfully concluded,
 - (c) the Registrar has not decided whether to revoke the person's licence and the period of 75 days beginning with the giving of the subsection (3) notice has ended,
 - (d) the person's licence expires or is revoked, or
 - (e) the Registrar decides to terminate the suspension.
- (12) The Registrar must give written notice to a person of the fact that the person's suspension is terminated as mentioned in subsection (11)(a) to (c) or (e).
- (13) For the purposes of this Part of this Act the fact that a person's licence is suspended does not prevent the person from being a licence-holder.”
- 6 After subsection (8) of section 129 of the Road Traffic Act 1988 (c. 52) (as it has effect without the omission of that section by Schedule 6 to the Act of 2006) (licences for giving instruction so as to obtain practical experience) insert—
- “(9) Sections 130(7) to (13) and 131A apply in relation to suspending a person's licence in connection with an application for a new licence in substitution for a licence current at the date of the application as if—
- (a) the references in sections 130(7) to (13) and 131A to—
 - (i) a notice under section 130(3) were references to a notice under subsection (7) above,
 - (ii) the revocation of the licence were (except in section 130(11)(d)) references to the refusal of the person's application for a new licence, and
 - (iii) the decision not being in effect were references to the decision not being in effect because the licence has not expired, and
 - (b) section 131A(3), and the words “(whether or not the Registrar's decision has taken effect)” in section 131A(2)(b), were omitted.”

Compensation in respect of suspension

- 7 After section 131 of the Road Traffic Act 1988 (c. 52) (appeals) insert—

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“Compensation

131A Compensation in respect of suspension

- (1) The Secretary of State must by regulations make a scheme for the making of payments by the Secretary of State to persons in respect of one or more of the following—
 - (a) income losses incurred by them as a result of their registrations or licences being suspended by virtue of section 128(7A) to (7G) or (as the case may be) 130(7) to (13),
 - (b) non-income losses so incurred, and
 - (c) any other matters which relate to either such suspension and are provided for in the scheme.
- (2) No payments may be made under a scheme in respect of the suspension of a person's registration or licence unless—
 - (a) the suspension is terminated because the Registrar decides not to remove the person's name from the register or (as the case may be) not to revoke the licence,
 - (b) an appeal is successfully concluded against the decision of the Registrar to remove the person's name from the register or (as the case may be) to revoke the licence (whether or not the Registrar's decision has taken effect), or
 - (c) any other circumstances provided for in the scheme apply.
- (3) Where the decision of the Registrar to remove the person's name from the register or to revoke the licence has taken effect before an appeal against it is successfully concluded, any payments under a scheme may relate only to the suspension.
- (4) A scheme may, in particular, specify—
 - (a) the description or descriptions of income losses, or
 - (b) the description or descriptions of non-income losses,in respect of which payments are to be made but need not provide for the making of payments in respect of all income losses or all non-income losses or for the making of payments which correspond to the full amount of any income losses or non-income losses.
- (5) A scheme may also, in particular—
 - (a) specify the basis or bases of valuation for determining losses or the person who is to decide their valuation,
 - (b) specify the amounts of payments to be made or the basis or bases on which such amounts are to be calculated,
 - (c) provide for the procedure to be followed (including when claims may be made and the provision of information) in respect of claims under the scheme and for the determination of such claims.
- (6) A person who is aggrieved by a decision of the Secretary of State as to the person's entitlement to payments under a scheme or the amounts of any such payments may appeal to the First-tier Tribunal.

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- (7) On an appeal, the First-tier Tribunal may make such order as it considers appropriate.
- (8) If the Tribunal considers that any evidence adduced on an appeal had not been adduced to the Secretary of State before the making of the decision to which the appeal relates, the Tribunal may (instead of making an order under subsection (7)) remit the matter to the Secretary of State for the Secretary of State to reconsider the decision.
- (9) In this section—
“income losses” means losses of income, and
“non-income losses” means losses other than income losses.”

Commencement Information

II Sch. 1 para. 7 in force at 8.6.2012 for specified purposes by S.I. 2012/1356, art. 3(b)

PROSPECTIVE

SCHEDULE 2

Section 4(2)

REPEALS

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Road Traffic Act 1988 (c. 52)	In section 123 (as it has effect without the substitution of that section by Schedule 6 to the Road Safety Act 2006 (c. 49))— (a) in subsection (1)(a), the words “and the registration is not suspended”, and (b) in subsection (5), the words “, or (as the case may be) that the registration was at that time suspended”. Section 127(9). Section 128(7A) to (7G). Section 129(9). Section 130(7) to (13). Section 131A and the italic heading before it.
Road Traffic Offenders Act 1988 (c. 53)	In section 18(1) (as it has effect without the substitution of paragraphs (a) to (d) of that subsection by Schedule 6 to the Act of 2006), paragraph (ba).
Driving Instruction (Suspension and Exemption Powers) Act 2009 (c. 17)	Section 4(1). Schedule 1.

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