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## STATUTORY INSTRUMENTS

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# 1998 No. 1074 (N.I. 7)

## The Road Traffic (New Drivers) (Northern Ireland) Order 1998

22nd April 1998

F1

**F1** Order: functions transferred from Lord Chancellor to Department of Justice (12.4.2010) by [Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), arts. 1(2), 15(1), [Sch. 17 para. 48](#) (with arts. 15(6), 28-31); S.I. 2010/977, [art. 1\(2\)](#)

**Modifications etc. (not altering text)**

**C1** Order: transfer of functions (8.5.2016) by [The Departments \(Transfer of Functions\) Order \(Northern Ireland\) 2016 \(S.R. 2016/76\)](#), art. 1(2), [Sch. 5 Pt. 2](#) (with art. 9(2))

### *Introductory*

#### **Title and commencement**

1.—(1) This Order may be cited as the Road Traffic (New Drivers) (Northern Ireland) Order 1998.

(2) This Order shall come into operation on such day as the Head of the Department may by order appoint<sup>F2</sup>.

(3) Subject to paragraphs 1 and 8 of Schedule 2, nothing in any provision of this Order applies to a person who becomes a qualified driver before the day on which the provision comes into operation.

**F2** fully exercised by SR 1998/378

#### **Interpretation**

2.—(1) Subject to Article 12(1), the Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

“the Department” means the Department of the Environment;

[<sup>F3</sup>“full Great Britain licence” means a Great Britain licence other than a Great Britain provisional licence,

“Great Britain provisional licence” means a Great Britain licence which corresponds to a provisional licence.]

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- “notice” means notice in writing;
- “the Offenders Order” means the Road Traffic Offenders (Northern Ireland) Order 1996;
- “the Order of 1981” means the Road Traffic (Northern Ireland) Order 1981;
- “probationary period” has the meaning assigned to it by Article 3(1);
- “qualified driver” has the meaning assigned to it by Article 3(2);
- “the Road Traffic Orders” means the Order of 1981, the Road Traffic (Northern Ireland) Order 1995 and the Offenders Order.

(3) Expressions used in this Order which are also used in Part II of the Order of 1981 shall be construed in the same way as in that Order.

(4) Expressions used in this Order which are also used in the Offenders Order shall be construed in the same way as in that Order.

**F3** 2003 NI 16

**Probationary period for newly qualified drivers**

3.—(1) For the purposes of this Order, a person's probationary period is, subject to Article 9, the period of 2 years beginning with the day on which he becomes a qualified driver.

(2) For the purposes of this Order, a person becomes a qualified driver on the first occasion on which he passes—

- (a) any test of competence to drive mentioned in sub-paragraph (a) or (c) of Article 5(1) of the Order of 1981;
- (b) any test of competence to drive conducted under the law of—
  - (i) [F4]an]EEA State;
  - (ii) the Isle of Man;
  - (iii) any of the Channel Islands; or
  - (iv) Gibraltar.

<sup>F5</sup>(3) .....

**F4** Word in art. 3(2)(b)(i) substituted (31.12.2020) by [The Driving Licences \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2019 \(S.I. 2019/194\)](#), regs. 1(1), **5(a)**; 2020 c. 1, Sch. 5 para. 1(1)

**F5** Art. 3(3) omitted (31.12.2020) by virtue of [The Driving Licences \(Amendment\) \(Northern Ireland\) \(EU Exit\) Regulations 2019 \(S.I. 2019/194\)](#), regs. 1(1), **5(b)**; 2020 c. 1, Sch. 5 para. 1(1)

*Revocation of licences and re-testing*

**Surrender of licences**

4.—(1) Paragraph (2) applies where—

- (a) a person is the holder of a licence;
- (b) he is convicted of an offence involving obligatory endorsement;
- (c) the penalty points to be taken into account under Article 31 of the Offenders Order on that occasion number 6 or more;

- (d) the court makes an order falling within Article 49(1)(b) of that Order in respect of the offence;
  - (e) the person's licence shows the date on which he became a qualified driver, or that date has been shown by other evidence in the proceedings; and
  - (f) it appears to the court, in the light of the order and the date so shown, that the offence was committed during the person's probationary period.
- (2) Where this paragraph applies, the court shall send to the Department—
- (a) a notice containing the particulars required to be endorsed on the counterpart of the person's licence in accordance with the order referred to in paragraph (1)(d); and
  - (b) on their production to the court, the person's licence and its counterpart.
- (3) Paragraph (4) applies where—
- (a) a person's licence and its counterpart have been sent to the fixed penalty clerk under Article 60(7) of the Offenders Order [<sup>F6</sup>, retained by a vehicle examiner under that Article] or delivered to the [<sup>F7</sup>appropriate person] in response to a conditional offer issued under Article 80 of that Order;
  - (b) the offence to which the fixed penalty notice or the conditional offer relates is one involving obligatory endorsement;
  - (c) the [<sup>F8</sup>appropriate person] endorses the number of penalty points to be attributed to the offence on the counterpart of the licence;
  - (d) the penalty points to be taken into account by the [<sup>F8</sup>appropriate person] in respect of the offence number 6 or more;
  - (e) the licence shows the date on which the person became a qualified driver; and
  - (f) it appears to the [<sup>F8</sup>appropriate person], in the light of the particulars of the offence endorsed on the counterpart of the licence and the date so shown, that the offence was committed during the person's probationary period.
- (4) Where this paragraph applies <sup>F9</sup> . . . —
- (a) [<sup>F10</sup>the appropriate person] may not return the licence and its counterpart under Article 63(3) or (4) or 82(1) of the Offenders Order; but
  - (b) [<sup>F11</sup>unless the appropriate person is the Department, he] shall send them to the Department .
- (5) For the purposes of paragraph (3)(d) the penalty points to be taken into account <sup>F12</sup> . . . in respect of the offence are the penalty points which would have been taken into account under Article 31 of the Offenders Order if—
- (a) the person in question had been convicted of the offence; and
  - (b) the number of penalty points to be attributed to the offence on that occasion had been determined in accordance with Article 30(3) of that Order.
- [<sup>F13</sup>(6) In this Article and Article 5 “licence” includes a Great Britain licence.]
- [<sup>F14</sup>(7) In this Article and Article 5—
- “the appropriate person”, in relation to a fixed penalty notice, means—
- (a) if it was given by a constable or an authorised person, the fixed penalty clerk; and
  - (b) if it was given by a vehicle examiner or the Department, the Department; and
- “the appropriate person”, in relation to a conditional offer, means—
- (a) where the conditional offer was issued under Article 80(1) of the Offenders Order, the fixed penalty clerk; and

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(b) where it was issued under paragraph (1A) of that Article, the Department.]

- F6** Words in art. 4(3)(a) inserted (13.12.2010) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3)(4), 16, **Sch. 2 para. 23(a)(i)(A)** (with art. 84); S.R. 2010/370, **art. 2(1)**, Sch. Pt. 1
- F7** Words in art. 4(3)(a) substituted (13.12.2010) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3)(4), 16, **Sch. 2 para. 23(a)(i)(B)** (with art. 84); S.R. 2010/370, **art. 2(1)**, Sch. Pt. 1
- F8** Words in art. 4(3)(c)(d)(f) substituted (13.12.2010) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), art. 1(3)(4), 16, **Sch. 2 para. 23(a)(ii)** (with art. 84); S.R. 2010/370, **art. 2(1)**, Sch. Pt. 1
- F9** Words in art. 4(4) repealed (13.12.2010) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3)(4), 16, 86(2), Sch. 2 para. 23(b)(i), **Sch. 8 Pt. III** (with art. 84); S.R. 2010/370, **art. 2(1)**, Sch. Pt. 1
- F10** Words in art. 4(4)(a) inserted (13.12.2010) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3)(4), 16, **Sch. 2 para. 23(b)(ii)** (with art. 84); S.R. 2010/370, **art. 2(1)**, Sch. Pt. 1
- F11** Words in art. 4(4)(b) inserted (13.12.2010) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3)(4), 16, **Sch. 2 para. 23(b)(iii)** (with art. 84); S.R. 2010/370, **art. 2(1)**, Sch. Pt. 1
- F12** Words in art. 4(5) repealed (13.12.2010) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3)(4), 16, 86(2), Sch. 2 para. 23(c), **Sch. 8 Pt. III** (with art. 84); S.R. 2010/370, **art. 2(1)**, Sch. Pt. 1
- F13** 2003 NI 16
- F14** Art. 4(7) inserted (13.12.2010) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3)(4), 16, **Sch. 2 para. 23(d)** (with art. 84); S.R. 2010/370, **art. 2(1)**, Sch. Pt. 1

## Revocation of licences

5.—(1) Where the Department receives—

- (a) a notice sent to it under Article 4(2)(a) of particulars required to be endorsed on the counterpart of a person's licence, or
- (b) a person's licence and its counterpart sent to it in accordance with Article 4(2)(b) or <sup>F15</sup>(4)(b)],

the Department shall by notice served on that person revoke the licence.

<sup>F16</sup>(1ZA) Where Article 4(4)(a) applies but the appropriate person is the Department, the Department must by notice served on the person to whom the fixed penalty notice or conditional offer was given or issued, revoke that person's licence.]

<sup>F17</sup>(1A) Where the Department serves on the holder of a Great Britain licence a notice under paragraph (1) [<sup>F18</sup>or (1ZA)], the Department must send to the licensing authority in Great Britain—

- (a) particulars of the notice; and
- (b) the Great Britain licence.

(1B) Where the Department is sent by that licensing authority particulars of a notice served on the holder of a licence under section 3(1) [<sup>F19</sup>or (1ZA)] of the Road Traffic (New Drivers) Act 1995 (c. 13), the Department must by notice served on the holder revoke the licence.]

(2) A revocation under<sup>F20</sup> this Article] shall have effect from a date specified in the notice of revocation which shall not be earlier than the date of service of that notice.

[<sup>F17</sup>(3) In this Article references to the revocation of a person's Great Britain licence are references to its revocation as respects Northern Ireland; and, accordingly, the person ceases to be authorised by virtue of Article 19E(1) of the Order of 1981 to drive in Northern Ireland a motor vehicle of any class.]

- F15** Word in art. 5(1) substituted (13.12.2010) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3)(4), 16, Sch. 2 para. 24(a) (with art. 84); S.R. 2010/370, art. 2(1), Sch. Pt. 1
- F16** Art. 5(1ZA) inserted (13.12.2010) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3)(4), 16, Sch. 2 para. 24(b) (with art. 84); S.R. 2010/370, art. 2(1), Sch. Pt. 1
- F17** 2003 NI 16
- F18** Words in art. 5(1A) inserted (13.12.2010) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3)(4), 16, Sch. 2 para. 24(c) (with art. 84); S.R. 2010/370, art. 2(1), Sch. Pt. 1
- F19** Words in art. 5(1B) inserted (13.12.2010) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3)(4), 16, Sch. 2 para. 24(d) (with art. 84); S.R. 2010/370, art. 2(1), Sch. Pt. 1
- F20** Words in art. 5(2) substituted (13.12.2010) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3)(4), 16, Sch. 2 para. 24(e) (with art. 84); S.R. 2010/370, art. 2(1), Sch. Pt. 1

## Re-testing

6.—(1) Subject to paragraph (5) and Article 7, the Department may not under Part II of the Order of 1981 grant a person whose licence has been revoked under [<sup>F21</sup> Article 5] a full licence to drive any class of vehicles in relation to which the revoked licence was issued as a full licence [<sup>F21</sup> or (as the case may be) full Great Britain licence] unless he satisfies the Department that within the relevant period he has passed a relevant driving test.

[<sup>F21</sup>(1A) Subject to paragraph (5), the Department may not under that Part grant a person whose Great Britain licence has been revoked under section 3(1) of the Road Traffic (New Drivers) Act 1995 a full licence to drive any class of vehicles in relation to which the revoked licence was issued as a full Great Britain licence unless he satisfies the Department as mentioned in paragraph (1).]

(2) In this Article “relevant driving test” means, in relation to a person whose licence has been revoked, any test which—

- (a) falls within sub-paragraph (a) or (b) of Article 3(2); and
- (b) is a test of competence to drive any vehicle included in any class of vehicles in relation to which the revoked licence was issued as a full licence [<sup>F21</sup> or (as the case may be) full Great Britain licence].

(3) If the Department grants a full licence to a person who is required to pass a relevant driving test in order to be granted that licence, the licence granted shall (subject to Articles 9 and 70 to 79A of the Order of 1981) be one authorising that person to drive all the classes of vehicles in relation to which the revoked licence was issued as a full licence [<sup>F21</sup> or (as the case may be) full Great Britain licence].

(4) In paragraph (1) “the relevant period” means the period beginning—

- (a) after the date of the revocation of the licence; and
- (b) not more than 2 years before the date on which the application for the full licence is made.

(5) [<sup>F21</sup> Paragraphs (1) and (1A) do] not apply to a person whose licence has been revoked under [<sup>F21</sup> Article 5 or whose Great Britain licence has been revoked under section 3(1) of the Road Traffic

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(New Drivers) Act 1995] if, before he passes a relevant driving test, an order is made in relation to him under Article 41 of the Offenders Order (disqualification until test is passed).

F21 2003 NI 16

### Restoration of licence without re-testing in certain cases

7.—(1) If the Department receives notice that a person whose licence has been revoked under<sup>F22</sup> Article 5] is appealing against a conviction or endorsement which was the basis or formed part of the basis for the revocation, the Department shall grant that person free of charge a full licence for a period prescribed by regulations made by it,

(2) Regulations under paragraph (1) may in particular prescribe—

- (a) a period expiring when the appeal is finally determined or abandoned; or
- (b) a period expiring on the date on which the revoked licence would have expired if it had not been revoked.

(3) If the regulations prescribe a period other than that mentioned in paragraph (2)(a), a licence granted under paragraph (1) shall be treated as revoked if—

- (a) following the appeal, the penalty points taken into account for the purposes of Article 4<sup>F22</sup> or (as the case may be) section 2 of the Road Traffic (New Drivers) Act 1995] are not reduced to a number smaller than 6; or
- (b) the appeal is abandoned.

(4) If, in the case of a person whose licence has been revoked under<sup>F22</sup> Article 5], the Department receives notice that a court—

- (a) has quashed a conviction which was the basis or formed part of the basis for the revocation of the licence;
- (b) has quashed an endorsement which was the basis or formed part of the basis for the revocation of the licence and has not on doing so ordered him to be disqualified; or
- (c) has made an order which has the effect of reducing the penalty points taken into account for the purposes of Article 4<sup>F22</sup> or (as the case may be) section 2 of the Road Traffic (New Drivers) Act 1995] to a number smaller than 6,

then, subject to paragraph (5), the Department shall grant that person free of charge a full licence for a period expiring on the date on which the revoked licence would have expired if it had not been revoked.

(5) Paragraph (4) does not require the Department to grant a licence to a person who has been granted a previous licence which has not been surrendered unless that person provides the Department with an explanation for not surrendering the previous licence that the Department considers adequate.

(6) If, in accordance with paragraph (1) or (4). the Department grants a full licence to a person whose licence has been revoked under<sup>F22</sup> Article 5], the licence granted shall be one authorising that person to drive all the classes of vehicles in relation to which the revoked licence was issued as a full licence.

(7) Any licence granted in accordance with paragraph (1) or (4) shall 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.

(8) The Department, after consultation with the Lord Chancellor, may by regulations make provision for requiring such courts as may be prescribed by the regulations to give notice to the Department—

- (a) that a person whose licence has been or is due to be revoked under Article 5(1) is appealing against a conviction or endorsement which is the basis or forms part of the basis for the revocation;
- (b) as to the final determination of such an appeal;
- (c) that such an appeal has been abandoned.

(9) Regulations under this Article may include such incidental or supplementary provision as appears to the Department to be expedient and shall be subject to negative resolution.

[<sup>F22</sup>(10) Nothing in this Article applies in relation to a person whose Great Britain licence has been revoked under Article 5(1).]

**F22** 2003 NI 16

### *Miscellaneous and general*

#### **Newly qualified drivers holding test certificates**

8. Schedule 1 (which makes provision about newly qualified drivers who hold test certificates) shall have effect.

#### **Early termination of probationary period**

9. For the purposes of this Order a person's probationary period comes to an end if—
- (a) an order is made in relation to him under Article 41 of the Offenders Order (order that a person be disqualified until he passes the appropriate driving test);
  - (b) after his licence is revoked under [<sup>F23</sup> Article 5], he is granted a full licence following the passing of a test which is a relevant driving test for the purposes of Article 6; or
  - (c) after his test certificate is revoked under [<sup>F23</sup> paragraph 5] of Schedule 1, or his licence and test certificate are revoked under [<sup>F23</sup> paragraph 8] of that Schedule, he is granted a full licence following the passing of a test which is a relevant driving test for the purposes of paragraph 6 or 9 of that Schedule.

**F23** 2003 NI 16

#### *Article 10—Amendments*

#### **The Crown**

11. This Order applies to persons in the public service of the Crown.

#### **Service of documents, etc.**

12.—(1) Subject to any requirement of this Order with respect to the manner in which a person may be provided with a document for the purposes of this Order, section 24 of the Interpretation Act (Northern Ireland) 1954 shall apply in relation to the service of such a document as if in subsection (1) of that section the word “registering” were omitted.

(2) Any requirement under any provision of this Order that a licence and its counterpart, a test certificate or a notice shall be sent to the Department is a requirement that the licence and its counterpart, the test certificate or the notice shall be sent to the Department at such address as the Department may determine.

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*Article 13—Amendments and repeals*



## SCHEDULES

### SCHEDULE 1

Article 8.

#### NEWLY QUALIFIED DRIVERS HOLDING TEST CERTIFICATES

#### PART I

#### GENERAL

##### *Interpretation*

1.—(1) In this Schedule “test certificate” means a certificate or other document which by virtue of regulations under Article 5 of the Order of 1981 is evidence that a person has not more than 2 years previously passed a test of competence to drive prescribed by virtue of such regulations.

(2) In this Schedule “prescribed conditions” means the prescribed conditions referred to in Article 13(3) of that Order (subject to which provisional licences are granted).

[<sup>F24</sup>(2A) In this Schedule “the appropriate person” has the same meaning as in Articles 4 and 5.]

[<sup>F25</sup>(3) In this Schedule “licence” includes a Great Britain licence, “full licence” includes a full Great Britain licence and “provisional licence” includes a Great Britain provisional licence.

(4) In relation to the holder of a Great Britain licence, the following sub-paragraphs have effect for the purposes of this Schedule.

(5) References to a test certificate are references to a certificate or other document (in this Schedule referred to as a “Great Britain test certificate”) which is evidence that he has not more than two years previously passed a Great Britain test of competence to drive corresponding to the test mentioned in sub-paragraph (1).

(6) References to prescribed conditions are references to conditions subject to which the Great Britain provisional licence was granted.]

**F24** Sch. 1 para. 1(2A) inserted (13.12.2010) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3)(4), 16, Sch. 2 para. 25(a) (with art. 84); S.R. 2010/370, art. 2(1), Sch. Pt. 1  
**F25** 2003 NI 16

##### *Application of Schedule*

2.—(1) Part II applies to any person to whom Part III or IV applies.

(2) Part III applies to a person who holds—

- (a) a licence issued as a provisional licence; and
- (b) a test certificate.

(3) Part IV applies to a person who falls within sub-paragraph (4) or (5).

(4) A person falls within this sub-paragraph if—

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- (a) he holds a licence issued as a full licence in relation to a class or certain classes of vehicles;
- (b) he is treated under Article 14(2) of the Order of 1981 as authorised by a provisional licence to drive another class or other classes of vehicles; and
- (c) he holds a test certificate which relates to that other class of vehicles or any of those other classes of vehicles.

[<sup>F26</sup>(4A) In relation to the holder of a Great Britain licence, the reference in sub-paragraph (4)(b) to Article 14(2) of the Order of 1981 is a reference to section 98(2) of the Road Traffic Act 1988.]

(5) A person falls within this sub-paragraph if he holds—

- (a) a licence issued as a full licence in relation to a class or certain classes of vehicles and as a provisional licence in relation to another class or other classes of vehicles; and
- (b) a test certificate which relates to that other class of vehicles or any of those other classes of vehicles.

**F26** 2003 NI 16

## PART II

### DUTY TO PROVIDE TEST CERTIFICATE

3.—(1) Sub-paragraph (2) applies where—

- (a) a person to whom this Part applies is prosecuted for an offence involving obligatory endorsement; and
- (b) the time at which the offence for which he is prosecuted is alleged to have occurred is a time during his probationary period.

(2) Any obligations imposed on the person under Article 11 of the Offenders Order as respects his licence and its counterpart shall also apply as respects his test certificate.

(3) If, in a case where sub-paragraph (2) applies—

- (a) the person is convicted in the proceedings in question of an offence involving obligatory endorsement; and
- (b) he has not previously caused his test certificate to be delivered or posted it to the clerk of the court,

he shall produce his test certificate to the court.

(4) In a case where—

- (a) the licence of a person to whom this Part applies has (with its counterpart) been sent to the [<sup>F27</sup>appropriate person] under Article 60(7) of the Offenders Order or delivered to the [<sup>F27</sup>appropriate person] in response to a conditional offer issued under Article 80 of that Order;
- (b) the offence to which the fixed penalty notice or the conditional offer relates is one involving obligatory endorsement and occurring during his probationary period; and
- (c) the person proposes to pay the fixed penalty to the [<sup>F28</sup>appropriate person],

the person shall ensure that when the fixed penalty is paid his test certificate is sent to the [<sup>F29</sup>appropriate person].

(5) A person who without reasonable excuse fails to comply with sub-paragraph (3) or (4) is guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

- F27** Words in Sch. 1 para. 3(4)(a) substituted (13.12.2010) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3)(4), 16, Sch. 2 para. 25(b)(i) (with art. 84); S.R. 2010/370, art. 2(1), Sch. Pt. 1
- F28** Words in Sch. 1 para. 3(4)(c) substituted (13.12.2010) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3)(4), 16, Sch. 2 para. 25(b)(ii) (with art. 84); S.R. 2010/370, art. 2(1), Sch. Pt. 1
- F29** Words in Sch. 1 para. 3(4) substituted (13.12.2010) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3)(4), 16, Sch. 2 para. 25(b)(iii) (with art. 84); S.R. 2010/370, art. 2(1), Sch. Pt. 1

### PART III

#### NEWLY QUALIFIED DRIVER WITH PROVISIONAL LICENCE AND TEST CERTIFICATE

##### *Surrender of test certificate*

4.—(1) Where the circumstances mentioned in Article 4(1) exist with respect to a person to whom this Part applies, sub-paragraph (2) applies instead of Article 4(2).

(2) The court shall send to the Department—

- (a) a notice containing the particulars required to be endorsed on the counterpart of the person's licence in accordance with the order referred to in Article 4(1)(d); and
- (b) on its production to the court, the person's test certificate.

(3) Where—

- (a) the circumstances mentioned in Article 4(3)(a) to (d) and (f) exist with respect to a person to whom this Part applies;
- (b) the <sup>F30</sup>appropriate person] has received the person's test certificate in accordance with paragraph 3(4); and
- (c) the test certificate shows the date on which the person became a qualified driver,

[<sup>F31</sup>Article 4(4) does not apply but if the appropriate person is the fixed penalty clerk sub-paragraph (4) applies instead.]

(4) The fixed penalty clerk shall send to the Department—

- (a) a notice containing the particulars endorsed on the counterpart of the person's licence; and
- (b) the person's test certificate.

- F30** Words in Sch. 1 para. 4(3)(b) substituted (13.12.2010) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3)(4), 16, Sch. 2 para. 25(c)(i) (with art. 84); S.R. 2010/370, art. 2(1), Sch. Pt. 1
- F31** Words in Sch. 1 para. 4(3) substituted (13.12.2010) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3)(4), 16, Sch. 2 para. 25(c)(ii) (with art. 84); S.R. 2010/370, art. 2(1), Sch. Pt. 1

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### *Revocation of test certificate*

5.—(1) Where the Department—

- (a) has received a notice sent to it under paragraph 4 of particulars required to be endorsed or endorsed on the counterpart of a person's licence; and
- (b) has received the person's test certificate sent to it under paragraph 4(2)(b) or (4)(b) or is satisfied that the person has been issued with a test certificate,

the Department shall by notice served on that person revoke the test certificate.

[<sup>F32</sup>(1ZA) Where Article 4(4) is disapplied by paragraph 4(3) and the appropriate person is the Department, the Department must by notice served on the person to whom the fixed penalty notice or conditional offer was given or issued revoke that person's test certificate.]

[<sup>F33</sup>(1A) Where the Department serves on the holder of a Great Britain licence a notice under sub-paragraph (1) [<sup>F34</sup>or (1ZA)], the Department must send to the licensing authority in Great Britain particulars of the notice together with the Great Britain test certificate.

(1B) Where the Department is sent by that licensing authority particulars of a notice served on the holder of a licence under paragraph 5(1) [<sup>F35</sup>or (1ZA)] of Schedule 1 to the Road Traffic (New Drivers) Act 1995, the Department must by notice served on that person revoke his test certificate.]

(2) A revocation under [<sup>F36</sup> this paragraph] shall have effect from a date specified in the notice of revocation which shall not be earlier than the date of service of that notice.

(3) The effect of the revocation of a person's test certificate is that any prescribed conditions to which his provisional licence ceased to be subject when he became a qualified driver shall again apply.

[<sup>F33</sup>(4) In this paragraph and paragraph 8 references to the revocation of a person's Great Britain test certificate are references to its revocation as respects Northern Ireland.

(5) The effect of the revocation of a person's Great Britain test certificate as respects Northern Ireland is that any prescribed conditions to which his Great Britain provisional licence ceased to be subject when he became a qualified driver shall again apply for the purposes of Article 19E(1) of the Order of 1981.]

**F32** Sch. 1 para. 5(1ZA) inserted (13.12.2010) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3)(4), 16, **Sch. 2 para. 25(d)(i)** (with art. 84); S.R. 2010/370, **art. 2(1)**, Sch. Pt. 1

**F33** 2003 NI 16

**F34** Words in Sch. 1 para. 5(1A) inserted (13.12.2010) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3)(4), 16, **Sch. 2 para. 25(d)(ii)** (with art. 84); S.R. 2010/370, **art. 2(1)**, Sch. Pt. 1

**F35** Words in Sch. 1 para. 5(1B) inserted (13.12.2010) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3)(4), 16, **Sch. 2 para. 25(d)(iii)** (with art. 84); S.R. 2010/370, **art. 2(1)**, Sch. Pt. 1

**F36** Words in Sch. 1 para. 5(2) substituted (13.12.2010) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3)(4), 16, **Sch. 2 para. 25(d)(iv)** (with art. 84); S.R. 2010/370, **art. 2(1)**, Sch. Pt. 1

### *Re-testing*

6.—(1) Subject to Part V, the Department shall not under Part II of the Order of 1981 grant a person whose test certificate has been revoked under [<sup>F37</sup> paragraph 5, or whose Great Britain test certificate has been revoked under paragraph 5(1) [<sup>F38</sup>or (1ZA)] of Schedule 1 to the Road Traffic

(New Drivers) Act 1995] a full licence to drive any class of vehicles that, immediately before his test certificate was revoked, he was permitted to drive without observing prescribed conditions, unless he satisfies the Department that within the relevant period he has passed a relevant driving test.

(2) In this paragraph “relevant driving test” means, in relation to a person whose test certificate has been revoked, any test which—

- (a) falls within sub-paragraph (a) or (b) of Article 3(2); and
- (b) is a test of competence to drive any vehicle included in any class of vehicles that, immediately before his test certificate was revoked, he was permitted to drive without observing prescribed conditions.

(3) If the Department grants a full licence to a person who is required to pass a relevant driving test in order to be granted that licence, the licence granted shall (subject to Articles 9 and 70 to 79A of the Order of 1981) be one authorising that person to drive all the classes of vehicles that, immediately before his test certificate was revoked, he was permitted to drive without observing prescribed conditions.

(4) In sub-paragraph (1) “the relevant period” means the period beginning—

- (a) after the date of the revocation of the test certificate; and
- (b) not more than 2 years before the date on which the application for the full licence is made.

**F37** 2003 NI 16

**F38** Words in Sch. 1 para. 6(1) inserted (13.12.2010) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3)(4), 16, Sch. 2 para. 25(e) (with art. 84); S.R. 2010/370, art. 2(1), Sch. Pt. 1

## PART IV

### NEWLY QUALIFIED DRIVER WITH FULL AND PROVISIONAL ENTITLEMENTS AND TEST CERTIFICATE

#### *Surrender of licence and test certificate*

7.—(1) Where the circumstances mentioned in Article 4(1) exist with respect to a person to whom this Part applies, sub-paragraph (2) applies instead of Article 4(2).

(2) The court shall send to the Department—

- (a) a notice containing the particulars required to be endorsed on the counterpart of the person's licence in accordance with the order referred to in Article 4(1)(d);
- (b) on their production to the court, the person's licence and its counterpart; and
- (c) on its production to the court, the person's test certificate.

(3) Where—

- (a) the circumstances mentioned in Article 4(3) exist with respect to a person to whom this Part applies; and
- (b) the [<sup>F39</sup>appropriate person] has received the person's test certificate in accordance with paragraph 3(4),

sub-paragraph (4) applies instead of Article 4(4).

(4) The [<sup>F40</sup>appropriate person]—

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- (a) shall not return the person's licence and its counterpart under Article 63(3) or (4) or Article 82(1) of the Offenders Order; but
- (b) [<sup>F41</sup>unless the appropriate person is the Department,] shall send them and the person's test certificate to the Department

**F39** Words in Sch. 1 para. 7(3)(b) substituted (13.12.2010) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3)(4), 16, Sch. 2 para. 25(f)(i) (with art. 84); S.R. 2010/370, art. 2(1), Sch. Pt. 1

**F40** Words in Sch. 1 para. 7(4) substituted (13.12.2010) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3)(4), 16, Sch. 2 para. 25(f)(ii)(A) (with art. 84); S.R. 2010/370, art. 2(1), Sch. Pt. 1

**F41** Words in Sch. 1 para. 7(4)(b) inserted (13.12.2010) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3)(4), 16, Sch. 2 para. 25(f)(ii)(B) (with art. 84); S.R. 2010/370, art. 2(1), Sch. Pt. 1

### *Revocation of licence and test certificate*

8.—(1) Where the Department—

- (a) has received a notice sent to it under paragraph 7(2)(a) of particulars required to be endorsed on the counterpart of a person's licence or has received the licence and its counterpart under paragraph 7(2)(b) or (4)(b); and
- (b) has received the person's test certificate sent to it under paragraph 7(2)(c) or (4)(b) or is satisfied that the person has been issued with a test certificate,

the Department shall by notice served on that person revoke the licence and the test certificate.

[<sup>F42</sup>(1ZA) Where paragraph 7(4) applies and the appropriate person is the Department, the Department must by notice served on the person to whom the fixed penalty notice or conditional offer was given or issued revoke that person's licence and test certificate.]

[<sup>F43</sup>(1A) Where the Department serves on the holder of a Great Britain licence a notice under sub-paragraph (1) [<sup>F44</sup>or (1ZA)], the Department must send to the licensing authority in Great Britain particulars of the notice together with the Great Britain licence and the Great Britain test certificate.

(1B) Where the Department is sent by that licensing authority particulars of a notice served on the holder of a licence under paragraph 8(1) [<sup>F45</sup>or (1ZA)] of Schedule 1 to the Road Traffic (New Drivers) Act 1995, the Department must by notice served on that person revoke his licence and test certificate.]

(2) A revocation under [<sup>F46</sup>this paragraph] shall have effect from a date specified in the notice of revocation which shall not be earlier than the date of service of that notice.

[<sup>F43</sup>(3) In this paragraph references to the revocation of a person's Great Britain licence are references to its revocation as respects Northern Ireland; and, accordingly, the person ceases to be authorised by virtue of Article 19E(1) of the Order of 1981 to drive in Northern Ireland a motor vehicle of any class.]

**F42** Sch. 1 para. 8(1ZA) inserted (13.12.2010) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3)(4), 16, Sch. 2 para. 25(g)(i) (with art. 84); S.R. 2010/370, art. 2(1), Sch. Pt. 1

**F43** 2003 NI 16

**F44** Words in Sch. 1 para. 8(1A) inserted (13.12.2010) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3)(4), 16, Sch. 2 para. 25(g)(ii) (with art. 84); S.R. 2010/370, art. 2(1), Sch. Pt. 1

- F45** Words in Sch. 1 para. 8(1B) inserted (13.12.2010) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3)(4), 16, Sch. 2 para. 25(g)(iii) (with art. 84); S.R. 2010/370, art. 2(1), Sch. Pt. 1
- F46** Words in Sch 1 para. 8(2) substituted (13.12.2010) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3)(4), 16, Sch. 2 para. 25(g)(iv) (with art. 84); S.R. 2010/370, art. 2(1), Sch. Pt. 1

### Re-testing

9.—(1) Subject to Part V, the Department shall not under Part II of the Order of 1981 grant a person whose licence and test certificate have been revoked under<sup>F47</sup> paragraph 8, or whose Great Britain licence and Great Britain test certificate have been revoked under paragraph 8(1) [<sup>F48</sup>or (1ZA)] of Schedule 1 to the Road Traffic (New Drivers) Act 1995,] a full licence to drive any class of vehicles mentioned in sub-paragraph (4), unless he satisfies the Department that within the relevant period he has passed a relevant driving test.

(2) In this paragraph “relevant driving test” means any test which—

- (a) falls within sub-paragraph (a) or (b) of Article 3(2); and
- (b) is a test of competence to drive any vehicle included in any class of vehicles mentioned in sub-paragraph (4).

(3) If the Department grants a full licence to a person who is required to pass a relevant driving test in order to be granted that licence, the licence granted shall (subject to Articles 9 and 70 to 79A of the Order of 1981) be one authorising that person to drive all the classes of vehicles mentioned in sub-paragraph (4).

(4) The classes of vehicles are—

- (a) any class of vehicles in relation to which the revoked licence was issued as a full licence; and
- (b) any class of vehicles—
  - (i) that he was treated under Article 14(2) of the Order of 1981<sup>F47</sup>, or under section 98(2) of the Road Traffic Act 1988,] as authorised to drive under a provisional licence; or
  - (ii) in relation to which the revoked licence was issued as a provisional licence, and that, immediately before the test certificate was revoked, he was permitted to drive without observing prescribed conditions.

(5) In sub-paragraph (1) “the relevant period” means the period beginning—

- (a) after the date of the revocation of the licence and the test certificate; and
- (b) not more than 2 years before the date on which the application for the full licence is made.

**F47** 2003 NI 16

**F48** Words in Sch. 1 para. 9 inserted (13.12.2010) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3)(4), 16, Sch. 2 para. 25(h) (with art. 84); S.R. 2010/370, art. 2(1), Sch. Pt. 1

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## PART V SUPPLEMENTARY

### *Effect of disqualification until test is passed on re-testing rule*

#### 10. Where—

- (a) a person's test certificate has been revoked under<sup>[F49]</sup> paragraph 5 (or a person's Great Britain test certificate has been revoked under paragraph 5(1) <sup>[F50]</sup>or (1ZA)] of Schedule 1 to the Road Traffic (New Drivers) Act 1995] or his licence and test certificate have been revoked under<sup>[F49]</sup> paragraph 8 (or a person's Great Britain licence and Great Britain test certificate have been revoked under paragraph 8(1) <sup>[F50]</sup>or (1ZA)] of Schedule 1 to the Road Traffic (New Drivers) Act 1995]; but
- (b) before he passes a relevant driving test, an order is made in relation to him under Article 41 of the Offenders Order (disqualification until test is passed),

paragraph 6(1) or, as the case may be, paragraph 9(1) shall not apply to him.

**F49** 2003 NI 16

**F50** Words in Sch. 1 para. 10(a) inserted (13.12.2010) by Road Traffic (Northern Ireland) Order 2007 (S.I. 2007/916 (N.I. 10)), arts. 1(3)(4), 16, Sch. 2 para. 25(i) (with art. 84); S.R. 2010/370, art. 2(1), Sch. Pt. 1

### *Regulations made by the Department*

**11.—**(1) The Department may by regulations make provision for cases where, after the Department has revoked a person's test certificate under<sup>[F51]</sup> paragraph 5], or a person's licence and test certificate under<sup>[F51]</sup> paragraph 8], it receives notice—

- (a) that the person is appealing against a conviction or endorsement which was the basis or formed part of the basis for the revocation;
- (b) that a court has quashed a conviction which was the basis or formed part of the basis for the revocation;
- (c) that a court has quashed an endorsement which was the basis or formed part of the basis for the revocation and has not on doing so ordered that person to be disqualified;
- (d) that a court has made an order which has the effect of reducing the penalty points taken into account for the purposes of Article 4<sup>[F51]</sup> or (as the case may be) section 2 of the Road Traffic (New Drivers) Act 1995.] to a number smaller than 6.

(2) Regulations under sub-paragraph (1) may in particular make provision for—

- (a) issuing licences for such period as may be prescribed;
- (b) licences issued under the regulations to be treated as revoked in such circumstances as may be prescribed;
- (c) re-issuing a test certificate which has been revoked under<sup>[F51]</sup> paragraph 5] or<sup>[F51]</sup> paragraph 8];
- (d) suspending or terminating any prescribed conditions applied by virtue of paragraph 5(3).

(3) The Department, after consultation with the Lord Chancellor, may by regulations make provision requiring such courts as may be prescribed to give notice to the Department of the matters mentioned in sub-paragraph (4).



(4) The matters referred to are—

- (a) that a person whose certificate has been or is due to be revoked under paragraph 5(1) or whose licence and certificate have been or are due to be revoked under paragraph 8(1) is appealing against a conviction or endorsement which is the basis or forms part of the basis for the revocation;
- (b) the final determination of such an appeal;
- (c) that such an appeal has been abandoned.

(5) Any regulations under this paragraph may include such incidental or supplementary provision as appears to the Department to be expedient and shall be subject to negative resolution.

**F51** 2003 NI 16

*Schedules 2, 3—Amendments*

*Schedule 4—Repeals*

**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- Sch. 1 para. 4(2) substituted by S.I. 2007/916 (N.I.) Sch. 5 para. 59(b)(i)
- Sch. 1 para. 7(2) substituted by S.I. 2007/916 (N.I.) Sch. 5 para. 59(d)(i)
- Sch. 1 para. 5(1) word substituted by S.I. 2007/916 (N.I.) Sch. 5 para. 59(c)(iii)
- Sch. 1 para. 7(4)(b) word substituted by S.I. 2007/916 (N.I.) Sch. 5 para. 59(d)(ii)(C)
- Sch. 1 para. 8(1)(a) word substituted by S.I. 2007/916 (N.I.) Sch. 5 para. 59(e)(iv)
- Sch. 1 para. 5(1) words inserted by 2016 c. 11 (N.I.) s. 20(4)(a)(i)
- Sch. 1 para. 5(1ZA) words inserted by 2016 c. 11 (N.I.) s. 20(4)(a)(ii)
- Sch. 1 para. 8(1) words inserted by 2016 c. 11 (N.I.) s. 20(4)(c)(i)
- Sch. 1 para. 8(1ZA) words inserted by 2016 c. 11 (N.I.) s. 20(4)(c)(ii)
- Sch. 1 para. 7(4)(b) words inserted by S.I. 2007/916 (N.I.) Sch. 5 para. 59(d)(ii)(C)
- Sch. 1 para. 3(2) words repealed by S.I. 2007/916 (N.I.) Sch. 5 para. 59(a)(i)Sch. 8 Pt. 5
- Sch. 1 para. 3(4)(a) words repealed by S.I. 2007/916 (N.I.) Sch. 5 para. 59(a)(ii)Sch. 8 Pt. 5
- Sch. 1 para. 7(4)(a) words repealed by S.I. 2007/916 (N.I.) Sch. 5 para. 59(d)(ii)(A)Sch. 8 Pt. 5
- Sch. 1 para. 8(1)(a) words repealed by S.I. 2007/916 (N.I.) Sch. 5 para. 59(e)(iii)Sch. 8 Pt. 5
- Sch. 1 para. 4(4) words substituted by S.I. 2007/916 (N.I.) Sch. 5 para. 59(b)(ii)
- Sch. 1 para. 5(1) words substituted by S.I. 2007/916 (N.I.) Sch. 5 para. 59(c)(i)
- Sch. 1 para. 5(1) words substituted by S.I. 2007/916 (N.I.) Sch. 5 para. 59(c)(ii)
- Sch. 1 para. 7(4)(a) words substituted by S.I. 2007/916 (N.I.) Sch. 5 para. 59(d)(ii)(B)
- Sch. 1 para. 8(1)(a) words substituted by S.I. 2007/916 (N.I.) Sch. 5 para. 59(e)(i)
- Sch. 1 para. 8(1)(a) words substituted by S.I. 2007/916 (N.I.) Sch. 5 para. 59(e)(ii)
- Sch. 2 para. 2-4 repealed by 2016 c. 11 (N.I.) Sch. 2
- Sch. 3 para. 8 repealed by S.I. 2007/916 (N.I.) Sch. 8 Pt. 5 (Amendment not carried through - relevant text not available on SLD.)
- art. 4(2) substituted by S.I. 2007/916 (N.I.) Sch. 5 para. 56(a)
- art. 4(3)(a) word substituted by S.I. 2007/916 (N.I.) Sch. 5 para. 56(b)(i)
- art. 4(3)(c) words repealed by S.I. 2007/916 (N.I.) Sch. 5 para. 56(b)(ii)(A)Sch. 8 Pt. 5
- art. 4(3)(c) words substituted by S.I. 2007/916 (N.I.) Sch. 5 para. 56(b)(ii)(B)
- art. 4(3)(f) words inserted by S.I. 2007/916 (N.I.) Sch. 5 para. 56(b)(iii)(A)
- art. 4(3)(f) words substituted by S.I. 2007/916 (N.I.) Sch. 5 para. 56(b)(iii)(B)
- art. 4(4)(a) words repealed by S.I. 2007/916 (N.I.) Sch. 5 para. 56(c)(i)(A)Sch. 8 Pt. 5
- art. 4(4)(a) words substituted by S.I. 2007/916 (N.I.) Sch. 5 para. 56(c)(i)(B)
- art. 4(4)(b) words inserted by S.I. 2007/916 (N.I.) Sch. 5 para. 56(c)(ii)
- art. 5(1) substituted by S.I. 2007/916 (N.I.) Sch. 5 para. 57
- art. 5(1) words inserted by 2016 c. 11 (N.I.) s. 20(2)(a)
- art. 5(1ZA) words inserted by 2016 c. 11 (N.I.) s. 20(2)(b)
- art. 12(2) words repealed by S.I. 2007/916 (N.I.) Sch. 5 para. 58Sch. 8 Pt. 5

**Changes and effects yet to be applied to the whole Order associated Parts and Chapters:**

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- Sch. 1 para. 5(6) added by 2016 c. 11 (N.I.) s. 20(4)(a)(iv)
- Sch. 1 para. 8(4) added by 2016 c. 11 (N.I.) s. 20(4)(c)(iv)
- Sch. 1 para. 5(1ZB)-(1ZC) inserted by 2016 c. 11 (N.I.) s. 20(4)(a)(iii)
- Sch. 1 para. 5A inserted by 2016 c. 11 (N.I.) s. 20(4)(b)
- Sch. 1 para. 8(1ZB)-(1ZC) inserted by 2016 c. 11 (N.I.) s. 20(4)(c)(iii)
- Sch. 1 para. 8A inserted by 2016 c. 11 (N.I.) s. 20(4)(d)
- art. 5(1ZB)(1ZC) inserted by 2016 c. 11 (N.I.) s. 20(2)(c)
- art. 5(4) added by 2016 c. 11 (N.I.) s. 20(2)(d)
- art. 5A5B inserted by 2016 c. 11 (N.I.) s. 20(3)