

SCHEDULE 1

Regulation 3

Amendments to the Road Traffic Offenders (Northern Ireland) Order 1996

1. In Article 2 (general interpretation)—
 - (a) in paragraph (2)—
 - (i) in the definition of “licence”, the words from “and” onwards shall be omitted, and
 - (ii) in the definition of “the provisions connected with the licensing of drivers” for “and 40 to 53”, there shall be substituted “40 to 53, 92A and 92B,”; and
 - (b) at the end of that paragraph there shall be inserted “and “Community licence”, “counterpart” and “EEA State” have the same meanings as in Part II of the Order of 1981”(1).
- 2.—(1) Article 7 (restriction on institution of proceedings for certain offences) shall be amended as follows.
 - (2) The existing provision shall be renumbered as paragraph (1) of that Article.
 - (3) After that paragraph as so renumbered there shall be inserted—

“(2) In paragraph (1) the reference to Article 11(3) of the Order of 1981 includes a reference to that provision as applied by Article 15D of that Order(2).>”
3. In Article 10 (time within which summary proceedings for certain offences must be commenced), in paragraph (3)—
 - (a) in sub-paragraph (a)(i), at the end there shall be inserted “and that provision as applied by Article 15D of that Order”;
 - (b) after sub-paragraph (a)(ii) there shall be inserted—

“(iia) Article 15B(11) (driving after failure to comply with a requirement under Article 15B(6), (7) or (10),”.
4. In Article 28 (interim disqualification), in paragraph (7), for “and 52(2)” there shall be substituted “, 52(2) and 92A(5)”.
 - 5.—(1) Article 41 (disqualification until test is passed) shall be amended as follows.
 - (2) In paragraph (11)—
 - (a) in sub-paragraph (a)—
 - (i) for “member State” there shall be substituted “EEA State”, and
 - (ii) the words from “(as” to “1981)” shall be omitted, and
 - (b) in sub-paragraph (b), for “that Order” there shall be substituted “the Order of 1981”.
 - (3) After paragraph (11) there shall be inserted—

“(11A) In paragraph (11) “designated country or territory” means a country or territory designated under Article 19D(2) of the Order of 1981(3).”
 - (6) After Article 92 (penalty for breach of regulations) there shall be inserted—

(1) Part II of the Road Traffic (Northern Ireland) Order 1981 was substituted by S.I. 1991/197 (N.I. 3) Schedule 1, has been amended by S.I. 1995/2994 (N.I. 18) Schedule 3, Part I and S.R. 1996 No. 426, Schedule 1 and is amended (prospectively) by S.I. 1996/1320 (N.I. 10) Schedule 3, Part I

(2) Articles 15A to 15D were inserted by S.R. 1996 No. 426, Schedule 1 paragraph 8

(3) Article 19D was substituted by S.I. 1991/197 (N.I. 3) Schedule 1

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“Application to Community licence holders

92A.—(1) The references in Articles 11, 28(4), (5) and (6)(b), 29, 31(1), 32, 33, 47(6), 49(1), 51(2), 52(3) and 53 to a licence include references to a Community licence; and accordingly the reference in Article 29(2)(b) to the suspension of a licence is to be construed in relation to a Community licence as a reference to the Community licence holder ceasing to be authorised by virtue of Article 15A(1) of the Order of 1981 to drive in Northern Ireland a motor vehicle of any class.

(2) The references in Articles 28(6)(a) and 29(2) to a new licence include references to a counterpart of a Community licence.

(3) In relation to a Community licence holder to whom a counterpart is issued under Article 15B of the Order of 1981, the references in Part IV of this Order to a licence include references to a Community licence.

(4) Where a court orders the endorsement of the counterpart of any Community licence held by a person, it must send notice of the endorsement to the Department.

(5) Where a court orders the holder of a Community licence to be disqualified, it must send the Community licence and its counterpart (if any), on their being produced to the court, to the Department.

(6) A notice sent by a court to the Department in pursuance of paragraph (4) must be sent in such manner and to such address and contain such particulars as the Department may determine, and a Community licence and its counterpart (if any) so sent in pursuance of paragraph (5) must be sent to such address as the Department may determine.

(7) Where a Community licence held by a person who is ordered by the court to be disqualified is sent to the Department in pursuance of paragraph (5), the Department—

- (a) must send to the licensing authority in the EEA State in respect of which the Community licence was issued the holder’s name and address and particulars of the disqualification, and
- (b) must (subject to paragraph (8)) return the Community licence to the holder—
 - (i) on the expiry of the period of disqualification, or
 - (ii) if earlier, on being satisfied that the holder has left Northern Ireland and is not normally resident there.

(8) Where—

- (a) the Department would, apart from this paragraph, be under a duty on the expiry of the period of disqualification to return a Community licence to a person in pursuance of paragraph (7)(b)(i), but
- (b) at that time, the person would not be authorised by virtue of Article 15A(1) of the Order of 1981 to drive in Northern Ireland a motor vehicle of any class,

the Department must send the Community licence to the licensing authority in the EEA State in respect of which it was issued and explain to them its reasons for so doing.

(9) A Community licence to be returned to any person under paragraph (7) may be returned to him by delivering it to him or by leaving it at his proper address or by sending it to him by post; and for the purposes of this paragraph and section 24 of the Interpretation Act (Northern Ireland) 1954 in its application to this paragraph the proper address of any person shall be his latest address as known to the person returning the Community licence.

(10) In this Article “period of disqualification” means, in relation to a Community licence holder, the period for which he is ordered by the court to be disqualified (otherwise than under Article 41).

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Effect of endorsement on Community licence holders

92B.—(1) An order that any particulars or penalty points are to be endorsed on the counterpart of any Community licence held by the person convicted shall operate as an order that—

- (a) the counterpart of any Community licence which he may then hold, or
- (b) the counterpart of any licence or Community licence which he may subsequently obtain,

is to be so endorsed until he becomes entitled under paragraph (3) to have a counterpart of his Community licence, or a licence and its counterpart, issued to him free from the particulars or penalty points.

(2) On the issue of a new counterpart of a Community licence or a new licence to a person, any particulars or penalty points ordered to be endorsed on the counterpart of any Community licence held by him shall be entered on the new counterpart or the counterpart of the new licence (as the case may be) unless he has become entitled under paragraph (3) to have a new counterpart of his Community licence or a new licence issued to him free from those particulars or penalty points.

(3) A person the counterpart of whose Community licence has been ordered to be endorsed is entitled to have issued to him with effect from the end of the period for which the endorsement remains effective (as determined in accordance with Article 50(4))—

- (a) a new counterpart of any Community licence then held by him free from the endorsement if he makes an application to the Department for that purpose in such manner as the Department may determine, or
- (b) a new licence with a counterpart free from the endorsement if he applies for a new licence in pursuance of Article 13(1) of the Order of 1981, surrenders any subsisting licence and its counterpart, pays the fee prescribed by regulations under Part II of that Order and satisfies the other requirements of Article 13(1).”

7. In Schedule 1 (prosecution and punishment of offences), in Part I—

- (a) in the entry for Article 11(3) of the Order of 1981, in column 2, at the end there shall be inserted “and that provision as applied by Article 15D”,
- (b) after the entry for Article 15(7) of the Order of 1981, there shall be inserted the following entries—

Article 15B(11)	Driving after failure to comply with a requirement under Article 15B(6), (7) or (10).	Summarily.	Level 3 on the standard scale.	—	—	—
Article 15C(4)	Failure to deliver Community licence and its counterpart	Summarily.	Level 3 on the standard scale.	—	—	—

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to
 Department
 when
 required
 by notice
 under
 Article
 15C.

- (c) in the entry for Article 72 of the Order of 1981, in column 2, for the words “or PCV licence” there shall be substituted “PCV licence or LGV Community licence”,
- (d) after the entry for Article 72 of the Order of 1981, there shall be inserted the following entry—

Article 73A(4)	Failure to deliver LGV or PCV Community licence when required by notice under Article 73A.	Summarily.	Level 3 on the standard scale.	—	—	—
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- (e) in the entry for Article 77(4) of the Order of 1981, in column 2, at the end there shall be inserted “or LGV or PCV Community licences”,
- (f) in the entry for Article 174(2) of the Order of 1981, in column 2, after “licences” there shall be inserted “counterparts of Community licences,”.