

**2017 No. 117**

**EUROPEAN COMMUNITIES**

**ROAD TRAFFIC AND VEHICLES**

**The Driving and Motorcycle Instructors (Recognition of  
European Professional Qualifications) Regulations (Northern  
Ireland) 2017**

*Made* - - - - - *23rd June 2017*

*Coming into operation* - - - - - *31st July 2017*

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SCHEDULE 1

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The Department for Infrastructure(**a**) makes the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972(**b**) and Articles 48, 51(1) and (5), 52(3) and (7), 57(1), 70(1), 75 and 76 of the Road Traffic (Northern Ireland) Order 2007(**c**) and now vested in it(**d**).

The Department for Infrastructure is designated(**e**) for the purposes of section 2(2) of the European Communities Act 1972 in relation to measures relating to recognition of higher-education diplomas or formal qualifications required for the pursuit of professions or other occupations.

## PART 1

### General

#### **Citation, commencement and interpretation**

**1.**—(1) These Regulations may be cited as the Driving and Motorcycle Instructors (Recognition of European Professional Qualifications) Regulations (Northern Ireland) 2017 and shall come into operation on 31<sup>st</sup> July 2017.

(2) The Interpretation Act (Northern Ireland) 1954(**f**) shall apply to these Regulations as it applies to an Act of the Assembly.

#### **Establishment of Part 1 of register**

**2.** On the day on which these Regulations come into operation, the register previously established and maintained under Part V of the Road Traffic (Northern Ireland) Order 2007 becomes Part 1 of the register established and maintained for the purposes of Part V of that Order.

## PART 2

### Amendment of primary legislation

#### **Amendment of the Road Traffic (Northern Ireland) Order 2007**

**3.**—(1) The Road Traffic (Northern Ireland) Order 2007 is amended in accordance with paragraphs (2) to (14).

(2) In Article 2(1) (interpretation) after the definition of “the Order of 1995” insert—

““the Regulations of 2015” means the European Union (Recognition of Professional Qualifications) Regulations 2015(**g**);”.

(3) In Article 48 (requirement of registration)—

(a) for paragraph (1) substitute—

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- (a) Formerly the Department for Regional Development; see section 1(6) and (11) and Schedule 1 to, the Departments Act (Northern Ireland) 2010 (2016 c. 5 (N.I.)). Pursuant to section 1(9) of that Act, the Department of the Environment is dissolved
- (b) 1972.c. 68; section 2(2) is amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c. 51) and by section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (2008 c. 7)
- (c) 2007 No. 916 (N.I. 10)
- (d) See Article 8(1)(b) of, and Part 2 of Schedule 5 to, the Departments (Transfer of Functions) Order (Northern Ireland) 2016 (S.R. 2016 No. 76)
- (e) S.I. 1989/1327
- (f) 1954 c. 33 (N.I.)
- (g) S.I. 2015/2059

“(1) A person must not give paid driving instruction of any prescribed description unless—

- (a) he is registered in Part 1 of the register in respect of the giving of that description of driving instruction; or
- (b) he is registered in Part 2 of the register in respect of the giving of that description of driving instruction, the registration is not suspended and the instruction is being given in accordance with a right conferred by Part 2 of the Regulations of 2015.

(1A) A person must not carry on a business in the provision of paid driving instruction of any prescribed description unless—

- (a) he is registered in Part 1 of the register in respect of the carrying on of business in the provision of that description of driving instruction; or
- (b) he is registered in Part 2 of the register in respect of the carrying on of business in the provision of that description of driving instruction, the registration is not suspended and the instruction is being given in accordance with a right conferred by Part 2 of the Regulations of 2015.”; and

(b) in paragraph (7) after “his name is in” insert “Part 1 or 2 of”.

(4) In Article 49 (paid driving instruction: offences)—

- (a) in paragraph (1) for “48(1)(a)” substitute “48(1)”;
- (b) in paragraph (2) for “48(1)(b)” substitute “48(1A)”;
- (c) in paragraph (3) after “time registered” insert “in the appropriate part of the register”; and
- (d) after paragraph (4) insert—

“(5) A person is not guilty of an offence under paragraph (4) if—

- (a) the person proves that the instruction was given in accordance with a right conferred on the person by Part 2 of the Regulations of 2015; and
- (b) the person had not received the evidence of registration mentioned in Article 48(2).”.

(5) In Article 51 (register) after paragraph (1) insert—

“(1A) The register is to be in two Parts.

(1B) Part 1 is to contain the names and addresses of persons the Registrar must register pursuant to Article 52(1).

(1C) Part 2 is to contain the names and addresses of persons the Registrar must register pursuant to Article 52(2A).”.

(6) In Article 52 (conditions of registration)—

- (a) in paragraph (1)—
  - (i) after “registered” insert “in Part 1 of the register”;
  - (ii) after “register him” insert “in that Part”;
- (b) in paragraph (2), after “registered” insert “in Part 1 of the register”; and
- (c) after that paragraph insert—

“(2A) Where a person submits to the Registrar, or to the appropriate officer under the 1988 Act, a declaration in accordance with regulations 15 and 16 of the Regulations of 2015 in respect of any description of driving instruction that entitles the person pursuant to Part 2 of those Regulations to give paid driving instruction in the United Kingdom on a temporary and occasional basis—

- (a) the Registrar must register him in Part 2 of the register in respect of that description of driving instruction; and
- (b) until the Registrar has complied with sub-paragraph (a), the person is to be treated for the purposes of Articles 48 and 70 of this Order as being in Part 2 of the register.

(2B) In paragraph (2A), “appropriate officer under the 1988 Act” means the officer referred to in section 125(2) of the Road Traffic Act 1988.”.

(7) In Article 55 (duration of registration)—

- (a) in paragraph (1) after “registration” insert “in Part 1 of the register”;
- (b) in paragraph (3) after “person’s registration” insert “in Part 1 of the register”;
- (c) in paragraph (4) after “registration” insert “in Part 1 of the register”; and
- (d) after paragraph (5) add—

“(6) Unless previously terminated under the provisions of this Order, a person’s registration in Part 2 of the register in respect of any description of driving instruction shall be terminated at the end of the period of one year beginning with the day specified in paragraph (7).

(7) That day is—

- (a) where the person has not submitted a relevant renewal of the declaration, before the first day of the month next after that in which the person became registered in Part 2 in respect of that description of driving instruction, that first day of that month; or
- (b) where the person has not submitted a subsequent relevant renewal, before the first day of the month next after that in which the person’s registration in Part 2 was last renewed pursuant to the submission by him of a previous relevant renewal, that first day of that month.

(8) In paragraph (7), ‘a relevant renewal’ means a renewal in accordance with regulations 15 and 16 of the Regulations of 2015 of the declaration or, as may be appropriate, of a previous renewal of the declaration.”.

(8) In Article 56 (extension of duration of registration)—

- (a) in paragraph (1) after “his registration” insert “in Part 1 of the register”;
- (b) in paragraph (4) after “of a person” insert “in Part 1 of the register”; and
- (c) in paragraph (6) after “person’s registration” insert “in Part 1 of the register”.

(9) In Article 57 (termination of registration)—

- (a) in paragraph (1)—
  - (i) after sub-paragraph (a) omit “or”;
  - (ii) after sub-paragraph (b) insert—

“(c) in a case where the declaration by virtue of which he was registered has not been renewed as mentioned in Articles 55(6) to (8), at any time since the declaration was made; or
  - (d) in a case where the declaration has been renewed as mentioned in those Articles, at any time since it was last renewed.”; and
- (b) in paragraph (3)—
  - (i) after “extended” insert “or renewed”;
  - (ii) after “extension” insert “or renewal”.

(10) In Article 58(1) (power to give direction as to further applications) after “Registrar” insert “, in respect of Part 1 of the register,”.

(11) In Article 59 (appeals to the Department)—

- (a) in paragraph (1)(a)(ii) after “extension” insert “or renewal”;
- (b) in paragraph (6) after “to be registered” insert “in Part 1 of the register”; and
- (c) in paragraph (11) after “extension” insert “or renewal”.

(12) In Article 60 (appeals to the court of summary jurisdiction)—

- (a) in paragraph (1)(a) after “extension” insert “or renewal”; and

(b) in paragraph (3) after “to be registered” insert “in Part 1 of the register,”.

(13) In Article 69(1) (power to alter registration period) after “Regulations may” insert “, in respect of Part 1 of the register,”.

(14) In Article 70 (evidence of registration)—

(a) for paragraph (2) substitute—

“(2) If at any time a person who is not registered in Part 1 or 2 of the register—

(a) displays a certificate or other item prescribed under paragraph (1) for use by persons registered in that Part;

(b) uses a title or other description prescribed under paragraph (1)(b) for use by such persons; or

(c) uses a title, certificate or other description implying that he is registered in that Part,

he is guilty of an offence unless he proves that he did not know, and did not have reasonable cause to believe, that he was not registered in Part 1 or, as the case may be, Part 2 of the register at that time.”;

(b) in paragraph (3)(a) after “paragraph(1)(b)” insert “for use by other persons registered in either Part of the register”;

(c) after paragraph (3)(a) omit “or”;

(d) after paragraph (3)(b) add—

“; or

(c) uses a title, certificate or other description, in relation to any relevant person who is not appropriately registered in either Part of the register, implying that the relevant person is appropriately registered.”.

### **Amendment of the Road Traffic (Amendment) Act (Northern Ireland) 2016**

**4.** Section 17(4)(b) of the Road Traffic (Amendment) Act (Northern Ireland) 2016 (amendment of Article 19D of the Road Traffic (Northern Ireland) Order 1981 as respects approved programmes of training: category B motor vehicles and motor bicycles) is amended as follows—

(a) in inserted paragraph (1ZB)(a)(i) after “approved driving instructor” insert “, EU temporary driving instructor”;

(b) in inserted paragraph (1ZB)(a)(ii) after “approved motorcycle instructor” insert “, EU temporary motorcycle instructor”;

(c) in inserted paragraph (1ZB)(a)(iii) after “approved motorcycle instructor” insert “or an EU temporary motorcycle instructor”; and

(d) in inserted paragraph (1ZB)(b) for “and “approved motorcycle instructor”” substitute “, approved motorcycle instructor, EU temporary driving instructor and EU temporary motorcycle instructor”.

## **PART 3**

### **Amendment of subordinate legislation**

### **Amendment of the Motor Vehicles (Driving Licences) Regulations (Northern Ireland) 1996**

**5.—(1)** The Motor Vehicles (Driving Licences) Regulations (Northern Ireland) 1996(a) are amended in accordance with paragraphs (2) to (9).

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(a) S.R. 1996 No. 542 relevant amending regulations are S.R. 1997 No. 383, S.R. 2003 Nos. 64 and 371, S.R. 2008 No. 418, S.R. 2009 No. 14 and S.R. 2011 No. 21

- (2) In regulation 2(1) (interpretation)—
- (a) for the definition of “approved motorcycle instructor” substitute—
 

““approved motorcycle instructor” means a motorcycle instructor whose name is registered in Part 1 of the register.”; and
  - (b) after the definition of “dual purpose vehicle” insert—
 

““EU temporary motorcycle instructor” means a motorcycle instructor registered in Part 2 of the register”.
- (3) In regulation 12 (conditions attached to provisional licences)—
- (a) in paragraphs (5A) and (5C) after the term “approved motorcycle instructor”, in each place that it occurs, insert “or EU temporary motorcycle instructor”;
  - (b) in paragraph (5A)(d) after “14(2)” insert “or (3)”; and
  - (c) in paragraph (5C)(d) after “14(2)” insert “or (3)”.
- (4) In regulation 47A(2) and (4) (provision of approved training courses) after the term “approved motorcycle instructor”, in each place that it occurs, insert “or EU temporary motorcycle instructor”.
- (5) In regulation 47B(3) (nature and conduct of training courses) after the term “approved motorcycle instructor” insert “or EU temporary motorcycle instructor”.
- (6) In regulation 47C(1) (withdrawal of approval to provide training courses or to act as instructor) after the term “approved motorcycle instructor”, in each place that it occurs, insert “or EU temporary motorcycle instructor”.
- (7) In regulation 47D (cessation of conduct of training) after the term “approved motorcycle instructor” insert “or EU temporary motorcycle instructor”.
- (8) In regulation 47F (ratio of trainees to instructors) after the term “approved motorcycle instructor” in each place that it occurs insert “or EU temporary motorcycle instructor”.
- (9) In regulation 47G(1), (1A) and (4) to (6) (evidence of successful completion of course) after the term “approved motorcycle instructor”, in each place that it occurs, insert “or EU temporary motorcycle instructor”.

### **Amendment of the Motor Vehicles (Driving Instruction) Regulations (Northern Ireland) 2010**

**6.—**(1) The Motor Vehicles (Driving Instruction) Regulations (Northern Ireland) 2010(a) are amended in accordance with paragraphs (2) to (11).

- (2) In regulation 2(1) (interpretation)—
- (a) in the definitions of “approved driving instructor” and “approved motorcycle instructor” for “entered in” substitute “registered in Part 1 of”;
  - (b) for the definition of “certificate” substitute ““certificate” means a document issued to an approved driving instructor, an approved motorcycle instructor, an EU temporary driving instructor or an EU temporary motorcycle instructor as evidence of registration as shown in Part I or Part II of Schedule 5;”;
  - (c) after the definition of “driving ability and fitness test” insert—
 

““EU temporary driving instructor” and “EU temporary motorcycle instructor” mean a person who is registered in Part 2 of the register;”;
  - (d) after the definition of “examiner” insert—
 

““home State” has the same meaning as in regulation 2(1) of the Regulations of 2015;”;
  - (e) for the definition of “the register” substitute ““the register” means either the register of approved driving instructors, the register of approved motorcycle instructors, the register

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(a) S.R. 2010 No. 227 as amended by S.R. 2010 No. 367 and S.R. 2015 No. 5

of EU temporary driving instructors or the register of EU temporary motorcycle instructors, as the case may be;” and

- (f) after the definition of “the Regulations of 2004” insert—  
““the Regulations of 2015” means the European Union (Recognition of Professional Qualifications) Regulations 2015(a);”.
- (3) For regulation 3 (register) substitute the following—

**“Register**

**3.** The register is to be compiled on behalf of the Department and maintained by the Registrar.”.

- (4) In regulation 4 (registration)—
- (a) in paragraph (1), for the words from the beginning to “conditions—” substitute “The conditions prescribed under Article 52(1) of the Order of 2007 for registration in Part 1 of the register are—”; and
- (b) after paragraph (1) insert—  
“(1A) Where the Registrar is satisfied that a person who has applied under Article 52(1) of the Order of 2007 for registration in Part 1 of the register is entitled to give paid instruction in any description of driving instruction by virtue of Part 3 of the Regulations of 2015, regulation 4(1)(a) and (b) shall not apply in relation to the applicant.”.
- (5) In regulation 6(1) (termination of registration)—
- (a) in sub-paragraph (f) omit “or”;
- (b) after sub-paragraph (g) insert—  
“(h) that he was not entitled to have been entered in the register by virtue of Part 2 of the Regulations of 2015;
- (i) that he is no longer registered in the register maintained by the officer referred to in section 125(2) of the Road Traffic Act 1988(b);
- (j) that his declaration under Part 2 of the Regulations of 2015 is no longer valid as he is no longer registered in his home State; or
- (k) that in accordance with regulation 13(2) of the Regulations of 2015, his provision of professional services is deemed not to be on a temporary and occasional basis.”;
- (c) in paragraph (2) after “whose registration” insert “in Part 1 of the register”; and
- (d) in paragraph (3) after “whose registration” insert “in Part 1 of the register”.
- (6) In regulation 14 (official title of registered person)—
- (a) in paragraph (1) after “names are in” insert “Part 1 of”;
- (b) in paragraph (1) for “Department of the Environment”, in each place that it occurs, substitute “Department for Infrastructure”;
- (c) after paragraph (1) insert—  
“(1A) The official title for use by persons whose names are in Part 2 of the register shall be the title used in that person’s home State.”;
- (d) in paragraph (2)—
- (i) after “names are in” insert “Part 1 of”;
- (ii) for “either Part I or Part II” substitute “Part 1”; and
- (e) after paragraph (2) insert—

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(a) S.I. 2015/2059  
(b) 1988 c.52

“(3) The certificate for issue to persons whose names are in Part 2 of the register, as evidence of their names being thereon, shall be in the form set out in Part II of Schedule 5.”

(7) In regulation 15 (display of certificate)—

(a) after “14(2)” insert “or (3)”; and

(b) after “approved”, in each place that it occurs, insert “or EU temporary”.

(8) For the heading to regulation 16A (ratio of motorcycle trainees to approved motorcycle instructors), substitute “Ratio of motorcycle trainees to approved or EU temporary motorcycle instructors”.

(9) In regulation 16A (ratio of motorcycle trainees to approved motorcycle instructors) after “approved” insert “or EU temporary”.

(10) For Schedule 5 substitute Schedule 5 as set out in Schedule 1 to these Regulations.

(11) In Schedule 6 (fees) for the table substitute the table set out in Schedule 2 to these Regulations.

Sealed with the Official Seal of the Department for Infrastructure on 23<sup>rd</sup> June 2017



*Elizabeth Loughran*  
A senior officer of the  
Department for Infrastructure



## SCHEDULE 1

Regulation 6(10)

## “SCHEDULE 5

Regulation 14(2) and (3)

### FORMS OF CERTIFICATES OF REGISTRATION

#### PART I

#### FORMS OF CERTIFICATES OF REGISTRATION — PART 1 OF THE REGISTER

##### Department for Infrastructure Approved Driving Instructor

- Road Traffic (Northern Ireland) Order 2007
- Certificate of Registration
- Photograph
- This is to certify that
- [Name] ..... is included in the Register of Approved Driving Instructors as qualified in giving instruction in the driving of motor cars.
- Valid Until:
- Signed:..... Registrar
- Certificate Number

##### Department for Infrastructure Approved Motorcycle Instructor

- Road Traffic (Northern Ireland) Order 2007
- Certificate of Registration
- Photograph
- This is to certify that
- [Name] ..... is included in the Register of Approved Motorcycle Instructors as qualified in giving instruction in the driving of motorcycles.
- Valid Until:
- Signed:..... Registrar
- Certificate Number

## PART II

### FORMS OF CERTIFICATES OF REGISTRATION — PART 2 OF THE REGISTER

#### EU Temporary Driving Instructor

- Road Traffic (Northern Ireland) Order 2007
- Certificate of Registration
- [photograph]
- This is to certify that
- [Name]..... is included in the Register of Temporary Driving Instructors as qualified to give instruction in the driving of motor cars.
- Valid Until:
- Signed:..... Registrar
- Certificate Number

#### EU Temporary Motorcycle Instructor

- Road Traffic (Northern Ireland) Order 2007
- Certificate of Registration
- [photograph]
- This is to certify that
- [Name]..... is included in the Register of Temporary Motorcycle Instructors as qualified to give instruction in the driving of motorcycles.
- Valid Until:
- Signed:..... Registrar
- Certificate Number”

## SCHEDULE 2

Regulation 6(11)

	<i>“Matter in respect of which application is made</i>	<i>Fee payable</i>
1a	Submission to the driving theory test	£64
1b	Submission to the riding theory test	£64
2a	Submission to the driving ability and fitness test	£130
2b	Submission to the riding ability and fitness test	£130
3a	Submission to the instructional ability and fitness test for a motor car	£138
3b	Submission to the instructional ability and fitness test for a motorcycle	£138
4a	Entry of name in Part 1 of the register as an approved driving instructor	£240
4b	Entry of name in Part 1 of the register as an approved motorcycle instructor	£240
4c	Entry of name in Part 2 of the register as an EU temporary driving instructor	No Fee
4d	Entry of name in Part 2 of the register as an EU temporary motorcycle instructor	No Fee
5a	Renewal of entry of name in Part 1 of the register as an approved driving instructor for a further period of four years	£240
5b	Renewal of entry of name in Part 1 of the register as an approved motorcycle instructor for a further period of four years	£240
5c	Renewal of entry of name in Part 2 of the register as an EU temporary driving instructor	No Fee
5d	Renewal of entry of name in Part 2 of the register as an EU temporary motorcycle instructor	No Fee
6a	Re-entry of name in Part 1 of the register as an approved driving instructor as if that person’s name has been removed from the register and, by virtue of regulation 6(3) he is not required again to pass the examination	£240
6b	Re-entry of name in Part 1 of the register as an approved motorcycle instructor as if that person’s name has been removed from the register and, by virtue of regulation 6(3) he is not required again to pass the examination	£240
7a	Entry of name in Part 1 of the register as an approved driving instructor without passing examination by virtue of regulation 19	£240
7b	Entry of name in Part 1 of the register as an approved motorcycle instructor without passing examination by virtue of regulation 19	£240”

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make further provision to implement Directive 2013/55/EU of the European Parliament and of the Council of 20th November 2013 amending Directive 2005/36/EC on the recognition of professional qualifications.

Regulation 3 amends the Road Traffic (Northern Ireland) Order 2007 regarding the requirement for registration to comply with the European Union (Recognition of Professional Qualifications) Regulations 2015. This regulation provides for the division of the existing register of approved driving and motorcycle instructors into two Parts. Part 1 will contain established approved driving and motorcycle instructors, and Part 2 will contain driving and motorcycle instructors who have obtained their professional qualifications in the European Economic Area or Switzerland and who are working in the United Kingdom on a temporary and occasional basis. The condition for registration in Part 2 of the register is inserted by regulation 3(6)(c). Regulation 2 provides for the existing register to become Part 1 of the new two Part register once these Regulations come into operation.

Regulation 4 amends the Road Traffic (Amendment) Act (Northern Ireland) 2016 to reflect the introduction of the EU temporary driving and motorcycle instructor categories.

Regulation 5 amends the Motor Vehicles (Driving Licences) Regulations (Northern Ireland) 1996 to reflect the introduction of an EU temporary motorcycle instructor category.

Regulation 6 amends the Motor Vehicles (Driving Instruction) Regulations (Northern Ireland) 2010 to expand the references to the register to reflect the new two part format. Provisions in relation to the termination of registration and the official title of registered persons are also amended.

An Explanatory Memorandum and Transposition Note have been produced and are available from Safe and Sustainable Travel Division, Department for Infrastructure, Clarence Court, 10-18 Adelaide Street, Town Parks, Belfast BT2 8GB or online alongside the Statutory Rule at <http://www.legislation.gov.uk/nisr>.

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£6.00

NI201706231 06/2017 19585

<http://www.legislation.gov.uk/id/nisr/2017/117>

ISBN 978-0-33-800821-3



9 780338 008213