

Status: Point in time view as at 01/04/2001.

Changes to legislation: There are currently no known outstanding effects for the Road Traffic (New Drivers) Act 1995. (See end of Document for details)

SCHEDULES

SCHEDULE 1

Section 6.

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 section 89 of the ^{M1}Road Traffic Act 1988 is evidence that a person has not more than two 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 section 97(3) of the 1988 Act (subject to which provisional licences are granted).

Marginal Citations

M1 1988 c. 52.

Application of Schedule

- 2 (1) Part II of this Schedule applies to any person to whom Part III or IV of this Schedule applies.
- (2) Part III of this Schedule applies to a person who holds—
- (a) a licence issued as a provisional licence; and
 - (b) a test certificate.
- (3) Part IV of this Schedule applies to a person who falls within sub-paragraph (4) or (5).
- (4) A person falls within this sub-paragraph if—
- (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 section 98(2) of the Road Traffic Act 1988 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.
- (5) A person falls within this sub-paragraph if he holds—

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- (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.

PART II

DUTY TO PROVIDE TEST CERTIFICATE

- 3 (1) Sub-paragraph (2) applies where—
- (a) a person to whom this Part of this Schedule 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 section 7 of the ^{M2}Road Traffic Offenders Act 1988 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 [^{F1}proper officer] of the court,
- he must produce his test certificate to the court.
- [^{F2}(3A) In sub-paragraph (3) “proper officer” means—
- (a) in relation to a magistrates’ court in England and Wales, the justices’ chief executive for the court, and
 - (b) in relation to any other court, the clerk of the court.]
- (4) In a case where—
- (a) the licence of a person to whom this Part of this Schedule applies has (with its counterpart) been sent to the fixed penalty clerk under section 54(7) of the ^{M3}Road Traffic Offenders Act 1988 or delivered to the fixed penalty clerk in response to a conditional offer issued under section 75 of that Act,
 - (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 fixed penalty clerk,
- the person must ensure that when the fixed penalty is paid his test certificate is sent to the fixed penalty clerk to whom the payment is made.
- (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.

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Textual Amendments

- F1** Words in Sch. 1 para. 3(3)(b) substituted (1.4.2001) by 1999 c. 22, s. 90 Sch. 13 para. 173 (with s. 107, Sch. 14 para. 7(2)); S.I. 2001/916, art. 2(a)(ii)
- F2** Sch. 1 para. 3(3A) inserted (1.4.2001) by 1999 c. 22, s. 90, Sch. 13 para. 173 (with s. 107, Sch. 14 para. 7(2)); S.I. 2001/916, art. 2(a)(ii)

Marginal Citations

- M2** 1988 c. 53.
M3 1988 c. 53.

PART III

NEWLY QUALIFIED DRIVER WITH PROVISIONAL LICENCE AND TEST CERTIFICATE

Surrender of test certificate

- 4 (1) Where the circumstances mentioned in section 2(1) exist with respect to a person to whom this Part of this Schedule applies, sub-paragraph (2) applies instead of section 2(2).
- (2) The court must send to the Secretary of State—
- (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 section 2(1)(d); and
 - (b) on its production to the court, the person's test certificate.
- (3) Where—
- (a) the circumstances mentioned in section 2(3)(a) to (d) and (f) exist with respect to a person to whom this Part of this Schedule applies,
 - (b) the fixed penalty clerk 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,
- sub-paragraph (4) applies instead of section 2(4).
- (4) The fixed penalty clerk must send to the Secretary of State—
- (a) a notice containing the particulars endorsed on the counterpart of the person's licence; and
 - (b) the person's test certificate.

Revocation of test certificate

- 5 (1) Where the Secretary of State—
- (a) has received a notice sent to him 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 him under paragraph 4(2)(b) or (4)(b) or is satisfied that the person has been issued with a test certificate,
- the Secretary of State must by notice served on that person revoke the test certificate.

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- (2) A revocation under sub-paragraph (1) shall have effect from a date specified in the notice of revocation which may 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.

Re-testing

- 6 (1) Subject to Part V of this Schedule, the Secretary of State may not under Part III of the ^{M4}Road Traffic Act 1988 grant a person whose test certificate has been revoked under paragraph 5(1) 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 Secretary of State 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 paragraph (a) or (b) of section 1(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 Secretary of State 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 must (subject to section 92 and Part IV of the ^{M5}Road Traffic Act 1988) 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 two years before the date on which the application for the full licence is made.

Marginal Citations

M4 1988 c. 52.

M5 1988 c. 52.

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 section 2(1) exist with respect to a person to whom this Part of this Schedule applies, sub-paragraph (2) applies instead of section 2(2).

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- (2) The court must send to the Secretary of State—
- (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 section 2(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 section 2(3) exist with respect to a person to whom this Part of this Schedule applies, and
 - (b) the fixed penalty clerk has received the person's test certificate in accordance with paragraph 3(4),
- sub-paragraph (4) applies instead of section 2(4).
- (4) The fixed penalty clerk—
- (a) may not return the person's licence and its counterpart under section 57(3) or (4) or 77(1) of the ^{M6}Road Traffic Offenders Act 1988; but
 - (b) must send them and the person's test certificate to the Secretary of State.

Marginal Citations

M6 1988 c. 53.

Revocation of licence and test certificate

- 8 (1) Where the Secretary of State—
- (a) has received a notice sent to him 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 him under paragraph 7(2)(b) or (4)(b) or is satisfied that the person has been issued with a test certificate,
- the Secretary of State must by notice served on that person revoke the licence and the test certificate.
- (2) A revocation under sub-paragraph (1) shall have effect from a date specified in the notice of revocation which may not be earlier than the date of service of that notice.

Re-testing

- 9 (1) Subject to Part V of this Schedule, the Secretary of State may not under Part III of the ^{M7}Road Traffic Act 1988 grant a person whose licence and test certificate have been revoked under paragraph 8(1) a full licence to drive any class of vehicles mentioned in sub-paragraph (4), unless he satisfies the Secretary of State 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 paragraph (a) or (b) of section 1(2); and
 - (b) is a test of competence to drive any vehicle included in any class of vehicles mentioned in sub-paragraph (4).

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- (3) If the Secretary of State 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 must (subject to section 92 and Part IV of the Road Traffic Act 1988) 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 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 two years before the date on which the application for the full licence is made.

Marginal Citations

M7 1988 c. 52.

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 paragraph 5(1) or his licence and test certificate have been revoked under paragraph 8(1), but
 - (b) before he passes a relevant driving test, an order is made in relation to him under section 36 of the Road Traffic Offenders Act 1988 (disqualification until test is passed),
- paragraph 6(1) or, as the case may be, paragraph 9(1) shall not apply to him.

Regulations

- 11 (1) The Secretary of State may by regulations make provision for cases where, after the Secretary of State has revoked a person’s test certificate under paragraph 5(1), or a person’s licence and test certificate under paragraph 8(1), he 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;

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- (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 section 2 to a number smaller than six.
- (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 paragraph 5(1) or 8(1);
 - (d) suspending or terminating any prescribed conditions applied by virtue of paragraph 5(3);
 - (e) requiring such courts as may be prescribed to give notice to the Secretary of State of the matters mentioned in sub-paragraph (3).
- (3) 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) that such an appeal has been abandoned.
- (4) Any regulations under this paragraph may—
- (a) include such incidental or supplementary provision as appears to the Secretary of State to be expedient;
 - (b) make different provision for different cases.
- (5) Any regulations under this paragraph shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Commencement Information

II Sch. 1 para. 11 in force (1.3.1997) by [S.I. 1997/267](#), [art. 2\(1\)](#)

SCHEDULE 2

Section 10(4).

CONSEQUENTIAL AMENDMENTS

The Road Traffic Act 1988 (c.52)

- 1 The Road Traffic Act 1988 shall be amended as follows.
- 2 (1) In the provisions mentioned in sub-paragraph (2) after “section 89 of this Act” insert “or section 4(1) of or paragraph 6(1) or 9(1) of Schedule 1 to the Road Traffic (New Drivers) Act 1995”.

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(2) The provisions are—

- (a) section 88(1A)(b)(ii) (meaning of “qualifying application” for purposes of exception to requirement that driver must have a licence);
- (b) section 97(1)(d) (person to whom licence must be granted must be a person who is not prevented from obtaining it by section 89 of the Act).

The Road Traffic Offenders Act 1988 (c.53)

3 The Road Traffic Offenders Act 1988 shall be amended as follows.

4 In section 47 (supplementary provisions as to disqualifications and endorsements) after subsection (2) (cases where the court may or must send licence and its counterpart to the Secretary of State) insert—

“(2A) Subsection (2) above is subject to section 2(2) of and paragraph 7(2) of Schedule 1 to the Road Traffic (New Drivers) Act 1995 (obligation of court to send licence and its counterpart to the Secretary of State).”

5 In section 57 (endorsement of licences without hearings) after subsection (6) insert—

“(7) Subsections (3) and (4) above are subject to section 2(4)(a) of and paragraph 7(4)(a) of Schedule 1 to the Road Traffic (New Drivers) Act 1995; and the fixed penalty clerk need not comply with subsection (6) above in a case where he sends a person’s licence and its counterpart to the Secretary of State under section 2(4)(b) of or paragraph 7(4)(b) of Schedule 1 to that Act.”

6 In section 77 (endorsement where penalty paid) after subsection (9) insert—

“(10) Subsection (1) above is subject to section 2(4)(a) of and paragraph 7(4)(a) of Schedule 1 to the Road Traffic (New Drivers) Act 1995; and the fixed penalty clerk need not send a notice falling within subsection (6)(a) above in a case where he sends a person’s licence and its counterpart to the Secretary of State under section 2(4)(b) of or paragraph 7(4)(b) of Schedule 1 to that Act.”

7 In Schedule 1 (offences to which various sections of the Act apply), in paragraph 2 (offences to which section 6 applies) omit the word “and” immediately preceding paragraph (c) and after that paragraph insert “and

- (d) to an offence under paragraph 3(5) of Schedule 1 to the Road Traffic (New Drivers) Act 1995.”

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