

SCHEDULES

SCHEDULE 6

Section 42

DRIVING INSTRUCTION

Road Traffic Act 1988 (c. 52)

- 1 The Road Traffic Act 1988 is amended as follows.
- 2 For section 123 (instruction in the driving of motor cars to be given only by registered or licensed person) and the heading before it substitute—

“Instructors and instruction businesses to be registered

123 Requirement of registration

- (1) A person—
 - (a) must not give paid driving instruction of any prescribed description unless he is registered in respect of the giving of that description of driving instruction, and
 - (b) must not carry on business in the provision of paid driving instruction of any prescribed description unless he is registered in respect of the carrying on of business in the provision of that description of driving instruction.
- (2) A person—
 - (a) must not give paid driving instruction of any prescribed description unless prescribed requirements as to the displaying of evidence that he is registered in respect of the giving of that description of driving instruction are complied with, and
 - (b) must not carry on business in the provision of paid driving instruction of any prescribed description unless prescribed requirements as to the displaying of evidence that he is registered in respect of the carrying on of business in the provision of that description of driving instruction are complied with.
- (3) In this Part of this Act “driving instruction” means instruction in relation to the driving of a motor vehicle.
- (4) Regulations under this Part which prescribe a description of driving instruction may do so by reference to—
 - (a) the class of motor vehicle to which the instruction relates,
 - (b) the description of persons to whom the instruction is given or provided, or
 - (c) the nature of the instruction or where or how it is given or provided.

Status: This is the original version (as it was originally enacted).

- (5) For the purposes of this Part of this Act instruction is paid instruction if payment of money or money's worth is, or is to be, made for the instruction by or in respect of the person to whom the instruction is given or provided.
- (6) Regulations may prescribe circumstances in which instruction provided free of charge shall be deemed to be given for payment of money by or in respect of the person to whom the instruction is given or provided.
- (7) For the purposes of this Part of this Act a person is "registered" if his name is in the register together with—
 - (a) an indication as to whether he is registered in respect of the giving of driving instruction or the carrying on of business in the provision of driving instruction (or both),
 - (b) an indication as to the description of driving instruction in respect of which he is registered, and
 - (c) such other particulars as may be prescribed,
 and "registration" shall be construed accordingly.
- (8) In this Part of this Act "the register" means the register established for the purposes of this Part of this Act under section 125 of this Act.

123A Paid driving instruction: offences

- (1) If driving instruction is given in contravention of section 123(1)(a) of this Act—
 - (a) the person by whom it is given,
 - (b) if that person is employed by another to give that instruction, that other (as well as that person), and
 - (c) if that person is a franchisee under a driving instruction franchise, the franchisor under the driving instruction franchise (as well as that person),
 is guilty of an offence.
- (2) If a person contravenes section 123(1)(b) of this Act he is guilty of an offence.
- (3) In proceedings against a person for an offence under subsection (1) or (2) above it shall be a defence for him to prove that he did not know, and had no reasonable cause to believe, that—
 - (a) in a case within paragraph (a) of subsection (1) above, or within subsection (2) above, he,
 - (b) in a case within paragraph (b) of subsection (1) above, the person employed by him, or
 - (c) in a case within paragraph (c) of that subsection, the person who was the franchisee under the driving instruction franchise,
 was not at the material time registered in respect of the description of driving instruction in question.
- (4) If a person contravenes section 123(2) of this Act he is guilty of an offence."

“124 Exemption from prohibitions imposed by section 123

- (1) Regulations may prescribe circumstances in which section 123 of this Act shall not apply in relation to driving instruction, or driving instruction of a prescribed description.
- (2) The regulations may, in particular, make provision for section 123(1)(a) and (2)(a) of this Act not to apply in prescribed circumstances for the purpose of enabling persons to acquire experience in giving driving instruction.”

4 For section 125 (register of approved instructors) substitute—

“125 Register

- (1) Regulations shall make provision for the establishment and maintenance of a register for the purposes of this Part of this Act.
- (2) An application to be registered in respect of any description of driving instruction must be made to the officer of the Secretary of State (in this Part of this Act referred to as “the Registrar”) by whom the register is, on behalf of the Secretary of State, compiled and maintained.
- (3) An application under subsection (2) above shall be made in such manner, and shall be accompanied by such particulars, as the Secretary of State may determine.
- (4) The Registrar must, on making a decision on an application under subsection (2) above, give notice in writing of the decision to the applicant which, in the case of a decision to refuse the application, must state the grounds for the refusal.
- (5) Regulations may make provision authorising the Secretary of State to make available information about persons registered under this section.
- (6) Subsections (2) to (5) above and section 125ZA of this Act do not apply in relation to an application by a person to be registered, or to a person’s registration, as a disabled instructor in respect of the giving of instruction in the driving of a motor vehicle in the motor vehicle.”

5 After that section insert—

“125ZA Conditions of registration

- (1) Where a person duly applies to be registered in respect of a description of driving instruction, the Registrar must register him in respect of that description of driving instruction if he satisfies the Registrar that the conditions prescribed under this subsection are fulfilled.
- (2) In the case of applications by persons to be registered in relation to the giving of a description of driving instruction, those conditions may (in particular) include—
 - (a) conditions requiring the persons to have passed such examinations of ability and fitness to give driving instruction of that description as may be prescribed under section 132 of this Act,

Status: This is the original version (as it was originally enacted).

- (b) conditions requiring the persons to hold, or to have held for a prescribed period, such licences to drive motor vehicles of a prescribed description as may be prescribed, and
 - (c) conditions requiring the persons not to have been disqualified during a prescribed period under prescribed provisions for holding or obtaining a licence to drive motor vehicles.
- (3) A person may be registered in respect of a description of driving instruction subject to fulfilling the conditions prescribed under this subsection for so long as he continues to be so registered.
- (4) In the case of the registration of persons in relation to the giving of a description of driving instruction, those conditions may (in particular) include—
- (a) conditions requiring the persons, if at any time required to do so by the Registrar, to submit themselves for such examinations of continued ability and fitness to give driving instruction of that description as may be prescribed under section 132 of this Act,
 - (b) conditions requiring the persons to have passed those examinations,
 - (c) conditions within subsection (2)(b) and (c) above, and
 - (d) conditions requiring the persons to follow guidance issued by the Registrar as to the giving of driving instruction of that description.
- (5) In the case of the registration of persons in relation to the carrying on of business in the provision of a description of driving instruction, those conditions may (in particular) include—
- (a) conditions requiring the persons to secure that motor vehicles and premises used by them in the carrying on of the business meet prescribed standards throughout the period of registration,
 - (b) conditions requiring the persons, if at any time required to do so by the Registrar, to allow those motor vehicles and premises to be inspected, and
 - (c) conditions requiring the persons to follow guidance issued by the Registrar as to the carrying on of business in the provision of driving instruction of that description.
- (6) The conditions prescribed under subsection (1) or (3) above may (in particular) include a condition that persons are fit and proper persons to be, or to continue to be, registered.
- (7) Regulations may include provision for persons of a prescribed description to be exempt from any condition, to such extent as is prescribed, in prescribed circumstances.”
- 6 (1) Section 125A (registration of disabled persons) is amended as follows.
- (2) For subsection (1) substitute—
- “(1) A person may apply to the Registrar to be registered as a disabled instructor in respect of the giving of instruction in the driving of a motor vehicle of a prescribed description in such a motor vehicle if he—
- (a) suffers from a disability or prospective disability affecting the driving of motor vehicles of that description,

Status: This is the original version (as it was originally enacted).

- (b) holds a current disabled person’s limited driving licence relating to motor vehicles of that description, and
- (c) holds a current emergency control certificate specifying motor vehicles of that description.”

(3) For subsections (5) to (7) substitute—

“(5) Where a person duly applies to be registered as a disabled instructor in respect of the giving of instruction in the driving of a motor vehicle of a prescribed description in such a motor vehicle, the Registrar must (subject to section 125B(4) of this Act) so register him if he satisfies the Registrar that the conditions prescribed under this subsection are fulfilled.

(6) Those conditions may (in particular) include—

- (a) conditions requiring the person to have passed such examinations of ability and fitness to give driving instruction of that description as may be prescribed under section 132 of this Act,
- (b) conditions requiring the person to hold, or to have held for a prescribed period, such licences to drive motor vehicles of a prescribed description as may be prescribed, and
- (c) conditions requiring the person not to have been disqualified during a prescribed period under prescribed provisions for holding or obtaining a licence to drive motor vehicles.

(7) A person may be so registered subject to fulfilling the conditions prescribed under this subsection for so long as he continues to be so registered.

(7A) Those conditions may (in particular) include—

- (a) conditions requiring the person, if at any time required to do so by the Registrar, to submit himself for such examinations of continued ability and fitness to give driving instruction of that description as may be prescribed under section 132 of this Act,
- (b) conditions requiring the person to have passed those examinations,
- (c) conditions requiring the person, if at any time required to do so by the Registrar, to submit himself for a further emergency control assessment on the day (within such period as may be prescribed) and at the place specified by the Registrar,
- (d) conditions within subsection (6)(b) and (c) above, and
- (e) conditions requiring the person to follow guidance issued by the Registrar as to the giving of instruction in the driving of a motor vehicle of a prescribed description in such a motor vehicle.

(7B) The conditions prescribed under subsection (5) or (7) above may (in particular) include a condition that persons are fit and proper persons to be, or to continue to be, registered.

(7C) In considering whether to exercise, in respect of any person, his power under subsection (7A)(c) above, the Registrar must have regard to any recommendation included in the person’s current emergency control certificate as to the period after which he should undergo a further emergency control assessment.

Status: This is the original version (as it was originally enacted).

(7D) Regulations may include provision for prescribed persons to be exempt from any prescribed condition, to such extent as is prescribed, in prescribed circumstances.

(7E) Regulations may make provision authorising the Secretary of State to make available information about persons registered under this section.”

(4) In subsection (8)—

(a) for the definition of “appropriate motor car” substitute—

““appropriate motor vehicle” means, subject to section 125B(2) of this Act, a motor vehicle equipped with automatic transmission;”

(b) in the definition of “disability”, for “means a want of physical ability affecting the driving of motor cars” substitute “, in respect of motor vehicles of any description, means a want of physical ability affecting the driving of motor vehicles of that description”

(c) in the definition of “relevant disability”, for “car” substitute “vehicle of the description in question”

(d) in the definition of “disabled person’s limited driving licence”, for “car”, in each place, substitute “vehicle”

(e) in the definition of “modifications”, for “car” substitute “vehicle”

(f) in the definition of “registered disabled instructor”, for “whose name is in the register with an indication that he is disabled” substitute “registered as a disabled instructor in respect of instruction in the driving of a motor vehicles of a prescribed description given in a motor vehicle of that description”, and

(g) in the words following that definition, for “car”, in both places, substitute “vehicle”.

7 (1) Section 125B (provisions supplementary to section 125A) is amended as follows.

(2) In subsection (2), for “car”, in each place, substitute “vehicle”.

(3) For subsection (3) substitute—

“(3) Regulations may make provision for prescribed persons to be exempt from section 125A(1)(c) of this Act in prescribed circumstances.”

(4) In subsection (4), for “enter the name of a person in the register under section 125A of this Act as that of a disabled instructor” substitute “register a person under section 125A of this Act”.

(5) Omit subsections (6) and (7).

8 For section 126 (duration of registration) substitute—

“126 Duration of registration

(1) Unless previously terminated under the following provisions of this Part of this Act, a person’s registration in respect of any description of driving instruction shall (subject to subsection (3) below) be terminated at the end of the period of four years beginning with the day specified in subsection (2) below.

(2) That day is—

Status: This is the original version (as it was originally enacted).

- (a) the first day of the month next after that in which the person became registered in respect of that description of driving instruction, or
 - (b) where his registration in respect of that description of driving instruction has been extended under section 127 of this Act, the day on which the last further period for which the registration was last extended began.
 - (3) If an application for the extension of a person’s registration in respect of any description of driving instruction is made under section 127 of this Act, the registration is not terminated under subsection (1) above.
 - (4) Where a person whose registration in respect of any description of driving instruction has been terminated under subsection (1) above applies under section 125 of this Act to be registered again in respect of that description of driving instruction, he shall be required again to fulfil such of the conditions prescribed under section 125ZA(1) of this Act as may be prescribed.
 - (5) But if the person was a registered disabled instructor he shall instead be required again to fulfil such of the conditions prescribed under section 125A(5) of this Act as may be prescribed.”
- 9 (1) Section 127 (extension of duration of registration) is amended as follows.
- (2) For subsections (1) to (4) substitute—
- “(1) A person may, no later than such time before his registration in respect of any description of driving instruction is terminated under section 126(1) of this Act as is prescribed, apply to the Registrar for the extension of that registration for a further period of four years.
 - (2) An application under subsection (1) above shall be made in such manner, and shall be accompanied by such particulars, as the Secretary of State may determine.
 - (3) On an application under subsection (1) above, the applicant shall be entitled to have the registration extended for the further period of four years if he satisfies the Registrar that the prescribed requirements are fulfilled.
 - (4) The continued registration of a person by virtue of an extension under this section may be made subject to—
 - (a) in the case of a registered disabled instructor, the conditions prescribed under section 125A(7) of this Act, and
 - (b) in any other case, the conditions prescribed under section 125ZA(3) of this Act.”
- (3) In subsection (7), after “application” insert “under subsection (1) above”.
- (4) In subsection (7A), for “A decision to refuse” substitute “The termination of a person’s registration on a decision to refuse such”.
- (5) In subsection (8), for “decision shall” substitute “termination of registration shall”.
- 10 For section 128 (removal of names from register) substitute—

“128 Termination of registration by Registrar

- (1) The Registrar may terminate a person’s registration in respect of any description of driving instruction if he is satisfied that any relevant prescribed condition has not been complied with in the case of the person—
 - (a) in a case where his registration has not been extended under section 127 of this Act, at any time since he became registered, or
 - (b) in a case where his registration has been so extended, at any time since it was last extended.
- (2) For the purposes of subsection (1) above “relevant prescribed condition” means—
 - (a) in the case of a registered disabled instructor, a condition prescribed under section 125A(7) of this Act, and
 - (b) in any other case, a condition prescribed under section 125ZA(3) of this Act.
- (3) The Registrar may also terminate a person’s registration in respect of a description of driving instruction if the person’s registration, or (if the person’s registration has been extended) the last extension of his registration, was made by mistake or procured by fraud.
- (4) Before terminating a person’s registration in respect of any description of driving instruction, the Registrar must give him written notice stating that he is considering terminating the registration and giving particulars of the grounds on which he is considering it.
- (5) Where the Registrar gives notice to a person under subsection (4) above—
 - (a) that person may, within the period of 28 days beginning with the day on which the notice is given, make representations with respect to the proposed termination,
 - (b) the Registrar must not decide to terminate the registration until after the end of that period, and
 - (c) before deciding whether or not to terminate the registration, the Registrar must take into consideration any such representations made by him within that period.
- (6) The Registrar must, on making a decision to terminate a person’s registration in respect of any description of driving instruction, give notice in writing of the decision to the person.
- (7) A decision to terminate a person’s registration in respect of any description of driving instruction shall take effect at the end of the period of 14 days beginning with the day on which notice of the decision is given (or, if any appeal brought against the decision under the following provisions of this Part of this Act is previously withdrawn or dismissed, when the appeal is withdrawn or dismissed).
- (8) But the Registrar may, when giving notice of his decision to terminate a person’s registration in respect of any description of driving instruction, direct that the decision shall instead take effect—

Status: This is the original version (as it was originally enacted).

- (a) where no appeal under the following provisions of this Part of this Act is brought against the decision within the time limited for the appeal, at the end of that time,
- (b) where such an appeal is brought and is withdrawn or struck out for want of prosecution, on the withdrawal or striking out of the appeal, or
- (c) where such an appeal is brought and not withdrawn or struck out for want of prosecution, if and when the appeal is dismissed, and not otherwise.”

11 After that section insert—

“128A Power to give direction as to further applications

- (1) This section applies when the Registrar decides—
 - (a) to refuse to register a person,
 - (b) to refuse an application for the extension of a person’s registration, or
 - (c) to terminate a person’s registration,in respect of any description of driving instruction.
- (2) The Registrar may direct that any application by that person to be registered in respect of that description of driving instruction shall not be entertained before the end of such period, not exceeding four years beginning with the day on which the decision takes effect, as may be specified in the direction.
- (3) Notice of any such direction must be included in the notice of the decision in connection with which it is given.”

12 Omit sections 129 and 130 (licences for giving instruction so as to obtain practical experience) and the heading before them.

13 (1) Section 131 (appeals) is amended as follows.

- (2) In subsection (1), for paragraphs (a) to (c) substitute—
 - “(a) to refuse an application for his registration or for the extension of his registration,
 - (b) to terminate his registration,
 - (c) to give a direction under section 128A of this Act.”.
- (3) Omit subsection (2).
- (4) In subsection (3), for paragraph (b) and the word “or” before it substitute—
 - “(b) for the continuation or termination of the registration, or
 - (c) for the revocation or confirmation of the direction or the alteration of the period specified in the direction.”.
- (5) In subsection (4), for the words from the beginning to the end of paragraph (b) substitute “An order for refusal or termination under subsection (3)(a) or (b) above may direct that an application by the appellant to be registered”.
- (6) In subsection (4B), for “, 128(7) or 130(6)” substitute “or 128(8)”.
- (7) In subsection (4D)—

Status: This is the original version (as it was originally enacted).

- (a) for “retention of a name in the register, to remove a name from the register or to revoke a licence granted under section 129 of this Act” substitute “extension of a person’s registration or to terminate a person’s registration”, and
 - (b) for “, 128(7) or 130(6)” substitute “or 128(8)”.
- (8) In subsection (4F), for “instruction in the driving of a motor car” substitute “driving instruction”.
- 14 For sections 132 and 133 and the heading before them substitute—

“Examinations and training

132 Examinations

- (1) Regulations may make provision with respect to—
 - (a) the nature of examinations of the ability and fitness (or continued ability and fitness) to give driving instruction (which may consist of practical tests and other tests and means of assessment) and the administrative arrangements for submitting for such examinations,
 - (b) the qualification, selection and appointment of persons by whom they may be conducted, conditions which must be satisfied during the currency of an appointment, the charging of reasonable fees in respect of applications for appointment or appointments or in connection with any examination or assessment which may be required before appointment or during the currency of any appointment and the revocation of any appointment,
 - (c) evidence of the results of such examinations, and
 - (d) the making available of information about the results of such examinations,
 and generally with respect to such examinations.
- (2) In particular, the regulations may make provision—
 - (a) for requiring a person submitting himself for any part of an examination which consists of practical tests, to provide a safe and suitable vehicle for the purposes of the practical tests and for requiring that, if the vehicle is a vehicle of a prescribed description, the vehicle has been certified in the prescribed manner after a prescribed inspection as satisfying such requirements as may be prescribed,
 - (b) for the charging (whether on the making by a person of arrangements to submit himself for any part of an examination or otherwise) of reasonable fees for or in connection with the examination, or any part of it, and any inspection and certification of a vehicle required by regulations under paragraph (a) above in relation to any part of the examination,
 - (c) for requiring a person who desires to submit himself, or is required to submit himself, for an examination, or any part of it, to supply the Registrar with such particulars as the Secretary of State may determine, and
 - (d) for ensuring that a person submitting himself for an examination, or any part of it, and failing to pass it shall not be eligible to submit

himself for another examination, or any part of it, by the same or any other person before the end of a prescribed period, except under an order made by a court or sheriff under the power conferred by section 133 of this Act.

133 Review of examinations etc.

- (1) On the application of a person who has undergone a relevant instructor examination, or a part of a relevant instructor examination—
 - (a) a magistrates' court, or
 - (b) in Scotland, the sheriff within whose jurisdiction he resides,may determine whether the examination, or the part of the examination, was properly conducted.
- (2) In this Part of this Act “relevant instructor examination” means—
 - (a) an examination of ability and fitness referred to in section 125ZA(2)(a) or 125A(6)(a) of this Act,
 - (b) an examination of continued ability and fitness referred to in section 125ZA(4)(a) or 125A(7A)(a) of this Act, or
 - (c) an emergency control assessment under section 133A of this Act.
- (3) If it appears to the court or sheriff that it was not properly conducted, the court or sheriff may—
 - (a) (except in the case of an emergency control assessment) order that the applicant shall be eligible to submit himself for another examination before the end of the period prescribed under section 132(2)(d) of this Act, and
 - (b) (in any case) order that any fee payable by the applicant in respect of the examination shall not be paid or, if it has been paid, shall be repaid.
- (4) No appeal shall lie under section 131 of this Act in respect of any matter in respect of which an application may be made to a magistrates' court or a sheriff under subsection (1) above.

133ZA Training

- (1) Regulations may provide that a person—
 - (a) shall not be permitted to take any part of a relevant instructor examination,
 - (b) shall not be registered, or
 - (c) shall not have his registration extended,unless he has successfully completed training in accordance with the regulations.
- (2) Regulations may make provision in relation to training—
 - (a) by means of courses provided in accordance with the regulations,
 - (b) by means of study conducted in accordance with the regulations, and
 - (c) by any other prescribed means.

Status: This is the original version (as it was originally enacted).

- (3) Regulations under this section may include provision exempting persons from any requirement imposed by virtue of subsection (1) above; and regulations including such provision may (in particular)—
 - (a) limit an exemption to persons in prescribed circumstances,
 - (b) attach conditions to an exemption,
 - (c) regulate applications for an exemption, and
 - (d) include provision for the evidencing by a person of his being within an exemption.
 - (4) Regulations under this section may provide that training is not to be taken into account for the purposes of the regulations if it was completed before such time as is prescribed.
 - (5) Regulations under this section may, in particular, include—
 - (a) provision about the nature of training,
 - (b) provision for the approval by the Secretary of State of persons providing training or giving instruction as part of training and the withdrawal of approval (including provision for appeals to the Transport Tribunal against refusal and withdrawal of approval) and provision for exemptions from any requirement of approval,
 - (c) provision for the training or assessment, or the supervision of training or assessment, of persons providing training or giving instruction as part of training,
 - (d) provision setting the maximum amount of any charges payable by persons undergoing training,
 - (e) provision for the evidencing of the successful completion of training, and
 - (f) provision authorising the Secretary of State to make available information about persons providing training or giving instruction as part of training.
 - (6) Regulations under this section may include provision for the charging of reasonable fees in respect of the exercise of any function conferred or imposed on the Secretary of State by the regulations.”
- 15 In section 133A (assessment of disabled person’s ability to control a motor car in an emergency), for “car” in each place (including in the heading) substitute “vehicle”.
- 16 (1) Section 133B (further assessments) is amended as follows.
- (2) In subsection (1), for “125B(6)(a)” substitute “125A(7A)(c)”.
 - (3) In subsection (2), for “whose name is not on the register” substitute “who is not registered”.
 - (4) In subsection (4)(b), for “car” substitute “vehicle”.
- 17 (1) Section 133C (duty to disclose further disability) is amended as follows.
- (2) Omit subsection (1).
 - (3) In subsection (2), for “person to whom this section applies” substitute “registered disabled instructor”.

- 18 (1) Section 133D (offences relating to giving by disabled person of paid driving instruction) is amended as follows.
- (2) Omit subsection (1).
- (3) For “car” in each place substitute “vehicle”.
- (4) In subsections (2) and (3), for “person to whom this section applies” substitute “registered disabled instructor”.
- (5) For subsection (4) substitute—
- “(4) Where a registered disabled instructor gives instruction in contravention of this section—
- (a) the instructor,
- (b) if the instructor is employed by another person to give that instruction, that other person (as well as the instructor), and
- (c) if the instructor is a franchisee under a driving instruction franchise, the franchisor (as well as the instructor),
- is guilty of an offence.”
- 19 For section 134 (power to alter conditions for entry or retention in, and removal from, register etc.) substitute—

“134 Power to alter registration period

- (1) Regulations may alter—
- (a) the period at the end of which a person’s registration is terminated (unless extended or further extended),
- (b) the period for which a person’s registration may be extended or further extended, and
- (c) the period before the end of which it may be directed that any application by a person to be registered shall not be entertained.
- (2) Regulations under this section may contain amendments of this Part of this Act.”

- 20 For section 135 substitute—

“135 Evidence of registration

- (1) Regulations may prescribe—
- (a) certificates or other items that may be issued to registered persons to be displayed as evidence of their registration, and
- (b) a title or other description which may be used as such evidence.
- (2) If at any time a person who is not registered—
- (a) displays a certificate or other item prescribed under subsection (1) (a) above,
- (b) uses a title or other description prescribed under subsection (1)(b) above, or
- (c) uses a title or other description implying that he is registered,
- 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 at that time.

Status: This is the original version (as it was originally enacted).

- (3) If a person carrying on business in the provision of driving instruction at any time—
- (a) uses a title or other description prescribed under subsection (1)(b) above in relation to any relevant person who is not appropriately registered, or
 - (b) issues any advertisement or invitation calculated to mislead with respect to the extent to which relevant persons are appropriately registered,
- he is guilty of an offence unless he proves that he did not know, and did not have reasonable cause to believe, that the relevant person was, or relevant persons were, not appropriately registered at that time.
- (4) For the purposes of subsection (3) above—
- (a) a relevant person is a person who is employed by the person carrying on business to give driving instruction, or is a franchisee giving driving instruction under a driving instruction franchise under which that person is the franchisor, and
 - (b) a relevant person is appropriately registered if he is registered in respect of the giving of the description of driving instruction which he is employed to give or which is given by him under the driving instruction franchise.”
- 21 In section 136 (surrender of certificates)—
- (a) for paragraphs (a) and (b) substitute “the registration of a person to whom a certificate or other item prescribed under section 135(1)(a) of this Act has been issued is terminated,”,
 - (b) for “licence, as the case may be,” substitute “other item”, and
 - (c) in the heading for “**and licences**” substitute “**etc.**”.
- 22 (1) Section 137 (production of certificates to constables and authorised persons) is amended as follows.
- (2) In subsection (1)—
- (a) after “a certificate” insert “or other item”,
 - (b) omit “, or to whom a licence under this Part of this Act is granted,”, and
 - (c) for “or licence” substitute “or other item”.
- (3) In subsection (2), for the words before “constable” substitute
- “Where—
- (a) a person’s registration is terminated, and
 - (b) he fails to satisfy an obligation imposed on him by section 136 of this Act,
- a”.
- (4) In that subsection, for “issued to him or the licence” substitute “or other item issued to him”.
- (5) In subsection (3), for “document” substitute “certificate or other item”.
- (6) In subsection (4), for “document”, in each place, substitute “certificate or other item”.
- (7) In the heading for “**and licences**” substitute “**etc.**”.

- 23 (1) Section 140 (receipts) is to be renumbered as subsection (3) of that section.
- (2) Before that subsection insert—
- “(1) Regulations may make provision for the payment of such fees (if any) as may be prescribed in connection with registration or extension of registration.
- (2) Regulations may make provision for the repayment (in whole or in part) of any fee payable by virtue of any provision of this Part of this Act in such circumstances as may be prescribed.”
- (3) For the heading substitute “**Fees**”.
- 24 (1) Section 141 (regulations) is to be renumbered as subsection (1) of that section.
- (2) In that subsection, after “by regulations” insert “and for prescribing anything which may be prescribed under this Part of this Act”.
- (3) After that subsection insert—
- “(2) Regulations under this section—
- (a) may be expressed to apply generally or only in particular circumstances,
- (b) may make different provision in relation to different cases or other circumstances or otherwise for different purposes, and
- (c) may make incidental, supplementary, consequential or transitional provision or savings.”
- 25 For section 141A (meaning of “motor car”) substitute—

“141A Interpretation of Part 5

- (1) For the purposes of this Part of this Act persons may carry on business in the provision of driving instruction in any way, including in particular—
- (a) by giving instruction themselves,
- (b) by arranging for the giving of driving instruction by their employees, or
- (c) by arranging for the giving of driving instruction by persons who are franchisees under driving instruction franchises under which they are the franchisor.
- (2) In this Part of this Act “driving instruction franchise” means an agreement under which one party (the “franchisor”) grants to another party (a “franchisee”) rights consisting of or including the right to use a particular trading name, style or design in the carrying on of business in the giving of driving instruction.
- (3) In this Part of this Act references to “the franchisor” and “a franchisee”, in relation to a driving instruction franchise, shall be construed accordingly.
- (4) In this Part of this Act “current”, in relation to a licence or certificate, means one which has not expired and has not been cancelled, revoked or suspended.
- (5) In this Part of this Act—
- (a) “Community licence” and “counterpart”, in relation to a Community licence, and

Status: This is the original version (as it was originally enacted).

(b) “provisional licence”,
have the same meanings as in Part 3 of this Act.”

26 For section 142 substitute—

“142 Index to Part 5

The expressions listed in the left-hand column below are respectively defined or (as the case may be) fall to be construed in accordance with the provisions of this Part of this Act listed in the right-hand column in relation to those expressions.

<i>Expression</i>	<i>Relevant provision</i>
Appropriate motor vehicle	Section 125A(8)
Carry on business in the provision of driving instruction	Section 141A(1)
Community licence and counterpart	Section 141A(5)
Current (in relation to a licence or certificate)	Section 141A(4)
Disability, prospective disability and relevant disability	Section 125A(8)
Disabled person’s limited driving licence	Section 125A(8)
Driving instruction	Section 123(3)
Driving instruction franchise (and franchisor and franchisee)	Section 141A(2) and (3)
Emergency control assessment and emergency control certificate	Section 125A(8)
Modifications, in relation to a motor vehicle	Section 125A(8)
Paid instruction	Section 123(5) and (6)
Provisional licence	Section 141A(5)
Registered and registration	Section 123(7)
The register	Section 123(8)
Registered disabled instructor	Section 125A(8)
The Registrar	Section 125(2)
Regulations	Section 141
Relevant instructor examination	Section 133(2)”

27 In section 173(2) (forgery of documents etc.), for paragraph (g) substitute—

“(g) any document evidencing the passing of an examination (or part of an examination) required by regulations under section 132 of this Act or the successful completion of training provided in accordance with regulations under section 133ZA of this Act,

Status: This is the original version (as it was originally enacted).

- (ga) any certificate under section 133A of this Act,
 - (gb) any certificate or other item prescribed under section 135(1)(a) of this Act.”.
- 28 In section 174(1) (false statements), after paragraph (d) insert—
“(da) of obtaining a document evidencing the passing of an examination (or part of an examination) required by regulations under section 132 of this Act or the successful completion of training provided in accordance with regulations under section 133ZA of this Act, or”.
- 29 In section 183 (application to Crown), after subsection (6) insert—
“(6A) The Secretary of State may by regulations provide that Part 5 of this Act is to apply in relation to persons in the public service of the Crown but subject to any prescribed omissions, additions or other modifications.”
- 30 In section 195(2) (duty to consult before making regulations under any provision other than section 8(3) and Part 5), omit “or Part 5”.

Road Traffic Offenders Act 1988 (c. 53)

- 31 The Road Traffic Offenders Act 1988 is amended as follows.
- 32 (1) Section 18 (evidence by certificate as to registration of driving instructors and licences to give instruction) is amended as follows.
- (2) In subsection (1), for paragraphs (a) to (d) substitute—
 - “(a) a person was, or was not, registered,
 - (b) a person became registered or a person’s registration was terminated, or
 - (c) a person was, or was not, exempt from the prohibitions imposed by section 123 of the Road Traffic Act 1988 (requirement of registration) by virtue of provision made by regulations under section 124 of that Act.”.
 - (3) In subsection (3), for the words from ““current” to ““register”” substitute ““Registrar”, “registered” and “registration””.
 - (4) In the heading, for “**of driving instructors and licences to give instruction**” substitute “**etc. of driving instructors etc.**”.
- 33 (1) Part 1 of Schedule 2 (prosecution and punishment of offences: offences under the Traffic Acts) is amended as follows.
- (2) In the entry relating to section 123(4) of the Road Traffic Act 1988 (c. 52)—
 - (a) in column 1, for “123(4)” substitute “123A(1) and (2)”, and
 - (b) in column 2, for “by unregistered and unlicensed persons or their employers” substitute “, and carrying on of business in provision of driving instruction, by unregistered persons”.
 - (3) In the entry relating to section 123(6) of that Act—
 - (a) in column 1, for “123(6)” substitute “123A(4)”, and
 - (b) in column 2, for “without there being exhibited on the motor car a certificate of registration or a licence under RTA Part 5” substitute “, and carrying on of business in provision of driving instruction, without prescribed requirements

Status: This is the original version (as it was originally enacted).

relating to displaying of evidence of registration under RTA Part 5 being complied with”.

- (4) In the entry relating to section 133C(4) of that Act, in column 2, omit “or licensed”.
- (5) In the entry relating to section 133D of that Act, in column 2, omit “or their employers”.
- (6) In the entry relating to section 135 of that Act, for the words in column 2 substitute “Misuse of evidence of registration etc.”.
- (7) In the entries relating to sections 136 and 137 of that Act, in column 2, for “or licence” substitute “etc.”.