

## SCHEDULE

Regulation 5

### APPROVALS, AUTHORISATIONS AND DESIGNATIONS FOR PURPOSES OF EXAMINATIONS

#### “PART II

#### APPLICATIONS FOR, AND CONDITIONS AND CESSATIONS OF, APPROVAL, AUTHORISATION AND DESIGNATION

##### **Application for approval as nominated tester or inspector or authorisation as authorised examiner**

7.—(1) An application by—

- (a) an individual nominated by an authorised examiner, for approval as a nominated tester;
- (b) an individual, for approval as an inspector; or
- (c) a person, for authorisation as an authorised examiner,

shall be made on a form supplied or approved by the Secretary of State.

(2) The application shall be signed—

- (a) where the applicant is a partnership or company, by a person duly authorised in that behalf;
- (b) in any other case, by the applicant; and
- (c) where it relates to approval as a nominated tester, also—
  - (i) by the authorised examiner by whom the applicant is nominated; or
  - (ii) where that authorised examiner is a partnership or company, by a person duly authorised in that behalf.

(3) The application shall be sent to the Secretary of State at such office of VOSA as he may direct.

(4) Where—

- (a) a person who wishes to apply for authorisation as an authorised examiner proposes to carry out examinations at more than one place; and
- (b) the Secretary of State so requires,

the applicant shall make such additional applications as the Secretary of State may, by notice to the applicant, require.

##### **Application for designation**

7A.—(1) An application by a council for designation for the purposes of sections 45 and 46 of the 1988 Act shall be made on a form supplied or approved by the Secretary of State, and shall be signed by the proper officer.

(2) The application shall be sent to the Secretary of State at the office of VOSA for the area which includes that of the council by which the application is made.

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## **Approvals, authorisations and designations**

8.—(1) The Secretary of State may, after making such investigations and carrying out such inspections as he thinks fit, by an instrument in writing approve, authorise or designate (as the case may be) a person by whom an application has been made under regulation 7 or 7A.

(2) The Secretary of State may at any time, by an instrument in writing, authorise any other person, other than an officer of the Secretary of State, to carry out examinations for the purposes of section 45 of the 1988 Act.

(3) An approval under paragraph (1) shall be subject to the conditions set out in regulation 8A (“the approval conditions”) and to such other conditions as may be specified in the approval.

(4) Every authorisation under paragraph (1) or (2) shall be subject to the conditions set out in regulation 8B (“the general authorisation conditions”).

(5) The authorisation of an examiner who is not an individual shall be subject (in addition to the general authorisation conditions) to the conditions set out in regulation 8C (“the corporate authorisation conditions”) and to such other conditions as may be specified in the authorisation.

(6) The authorisation of an examiner who is an individual shall be subject (in addition to the general authorisation conditions) to the conditions set out in regulation 8D (“the individual authorisation conditions”) and to such other conditions as may be specified in the authorisation.

(7) A designation under paragraph (1) shall be subject to the conditions set out in regulation 8E (“the designation conditions”) and to such other conditions as may be specified in the designation.

(8) Where the Secretary of State is minded not to approve, authorise or designate a person by whom, or on whose behalf, an application is made under regulation 7 or 7A (“the applicant”), he shall give notice to the applicant to that effect.

(9) The applicant (or any person acting on his behalf) may, within 14 days from the date of the notice given under paragraph (8), make to the Secretary of State, at the address specified in the notice, written representations to the effect that the applicant should be approved, authorised or designated (as the case may be).

## **The approval conditions**

8A. The conditions referred to in regulation 8(3) are that the person to whom the approval relates—

- (a) shall not carry out any examination—
  - (i) unless he has successfully completed a course of instruction in the carrying out of examinations provided under section 45(6A) of the 1988 Act;
  - (ii) at a particular vehicle testing station, unless by electronic communication or notice to the Secretary of State, at the office of VOSA for the area in which that testing station is situated, he has informed the Secretary of State of his intention to carry out examinations at that testing station;
- (b) where the approval is expressed to be limited to examinations—
  - (i) of a specified class of motor vehicle; or
  - (ii) of a specified description,shall not carry out examinations in relation to any other class of motor vehicle or description of examination;
- (c) shall carry out examinations using such methods and to such standards as have been notified to him by the Secretary of State; and

- (d) if the Secretary of State so requires, shall attend further courses of instruction, or otherwise satisfy the Secretary of State of his competence to continue to carry out examinations.

### **The general authorisation conditions**

**8B.** The conditions referred to in regulation 8(4) are that the authorised examiner—

- (a) shall comply with any limitation as to—
  - (i) the class of motor vehicle that may be examined;
  - (ii) the type of examination that may be carried out; or
  - (iii) the vehicle testing station at which examinations may be carried out, to which the authorisation is expressed to be subject;
- (b) unless he is himself to carry out the examination, shall not cause or permit an examination to be carried out at any vehicle testing station at which he is authorised to carry out examinations by a person other than—
  - (i) a nominated tester approved by the Secretary of State to carry out examinations at that testing station; or
  - (ii) a section 66A examiner;
- (c) shall, as regards each of the vehicle testing stations at which he is authorised to carry out examinations, by electronic communication or notice to the Secretary of State, at the office of VOSA for the area in which the testing station is situated, inform the Secretary of State—
  - (i) of the names of the individuals who are nominated testers at that testing station; and
  - (ii) the name of any such individual who ceases to act in that capacity;
- (d) shall ensure that every test certificate resulting from an examination carried out at any of its testing stations is signed by the person who carried out the examination or by such other person as the Secretary of State may in any particular case direct;
- (e) shall ensure that every notice of the refusal of a test certificate resulting from an examination carried out at any of its testing stations is signed by the person who carried out the examination;
- (f) shall comply with any direction of the Secretary of State as to the individuals by whom—
  - (i) examinations may not be carried out; or
  - (ii) test certificates or notices of the refusal of a test certificate may not be signed;
- (g) shall, at each vehicle testing station at which he is authorised to carry out examinations supervise the carrying out of examinations by the nominated testers authorised to carry out examinations at that testing station;
- (h) shall, subject to regulation 8F, so long as the authorisation is in force, display in a conspicuous place outside the vehicle testing station at which he is authorised to carry out examinations a sign of the size, colour and type shown in diagram 864.1 in Schedule 4 (miscellaneous informative signs) to the Traffic Signs Regulations and General Directions 2002(1);

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(1) S.I.2002/3113, to which there are amendments not relevant to these Regulations.

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- (i) shall, so long as the authorisation is in force, display at each vehicle testing station at which he is authorised to carry out examinations, in some conspicuous place and so as to be legible by persons submitting vehicles for examination at that testing station—
    - (i) the authorisation in which that testing station is specified; and
    - (ii) a list of the names of the individuals for the time being approved or authorised by the Secretary of State to carry out examinations at that testing station;
- and
- (j) after not less than three clear days' notice given to the authorised examiner by the Secretary of State, shall make available—
    - (i) any vehicle testing station at which he is authorised to carry out examinations; and
    - (ii) the apparatus at that testing station with which examinations are carried out, for the purpose of the carrying out by a section 66A examiner of any examination or the investigation of a complaint as to the result of an examination (whether or not the examination was carried out at that testing station).

#### **The corporate authorisation conditions**

**8C.** The conditions referred to in regulation 8(5) are—

- (a) that the authorised examiner shall, so long as the authorisation is in force, secure—
  - (i) where the examiner is a company, that at least one of its directors or senior managers has successfully completed a course of instruction in the functions of authorised examiners, provided under section 45(6A) of the 1988 Act; and
  - (ii) where the examiner is persons in partnership, that at least one of the partners has successfully completed such a course;
- (b) that, where the authorised examiner is persons in partnership and there is a change in the firm's constitution, it shall inform the Secretary of State, at the office of VOSA for the area in which its testing station is situated, of the particulars of the change within 7 days of the effective date of the change; and
- (c) that, where the authorised examiner is a company and a person becomes, or ceases to be—
  - (i) the secretary of the company,
  - (ii) a director, or
  - (iii) a senior manager to whom the description mentioned in paragraph (a)(i) applies,

it shall inform the Secretary of State, at the office of VOSA for the area in which its testing station is situated, of the occurrence of that event, and of the identity of the person or persons concerned, within 7 days of the occurrence of the event.

#### **The individual authorisation conditions**

**8D.** The conditions referred to in regulation 8(6) are that the individual to whom the authorisation relates—

- (a) shall not carry out any examination—
  - (i) unless he has successfully completed a course of instruction in the carrying out of examinations provided under section 45(6A) of the 1988 Act;

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- (ii) at a particular vehicle testing station, unless by electronic communication to the Secretary of State, at the office of VOSA for the area in which that testing station is situated, or by such other means as the Secretary of State may from time to time require, he has informed the Secretary of State of his intention to carry out examinations at that testing station;
- (b) shall, within 7 days of entering into a partnership with a view to carrying on at his vehicle testing station a business comprising the carrying out of examinations, inform the Secretary of State, at the office of VOSA for the area in which his vehicle testing station is situated, of his entry into partnership and of the identity of the other members of the firm; and
- (c) shall complete a course of instruction in the functions of authorised examiners provided under section 45(6A) of the 1988 Act.

### **The designation conditions**

**8E.** The conditions referred to in regulation 8(6) are that the council—

- (a) shall comply with any limitation as to—
  - (i) the class of motor vehicle that may be examined;
  - (ii) the type of examination that may be carried out; or
  - (iii) the vehicle testing station at which examinations may be carried out, to which the designation is expressed to be subject;
- (b) shall not cause or permit examinations to be carried out at any of their vehicle testing stations—
  - (i) by a person other than an inspector or a section 66A examiner; or
  - (ii) unless at least one individual (who may be an inspector), employed by the council, has completed a course of instruction in the functions of designated councils under these Regulations, provided under section 45(6A) of the 1988 Act;
- (c) shall, as regards each of their vehicle testing stations, by electronic communication or notice to the Secretary of State, at the office of VOSA for the area in which the testing station is situated, inform the Secretary of State—
  - (i) of the names of the inspectors appointed by the council to carry out examinations at that testing station; and
  - (ii) of the revocation of the appointment of any such inspector;
- (d) shall secure that every test certificate resulting from an examination carried out at any of their testing stations is signed by the person who carried out the examination or by such other person as the Secretary of State may in any particular case direct;
- (e) shall secure that every notice of the refusal of a test certificate resulting from an examination carried out at any of their testing stations is signed by the person who carried out the examination;
- (f) shall comply with any direction of the Secretary of State as to the individuals by whom—
  - (i) examinations may not be carried out; or
  - (ii) test certificates or notices of the refusal of a test certificate may not be signed;
- (g) shall, subject to regulation 8F, so long as the designation remains in force, display in a conspicuous place outside the vehicle testing station to which the designation

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relates, a sign of the size, colour and type shown in diagram 864.1 in Schedule 4 (miscellaneous informatory signs) to the Traffic Signs Regulations and General Directions 2002<sup>(2)</sup>;

- (h) shall, so long as the designation remains in force, display at each vehicle testing station to which the designation relates, in some conspicuous place and so as to be legible by persons submitting vehicles for examinations at that testing station—
  - (i) the designation in which that testing station is specified; and
  - (ii) a list of the names of the inspectors for the time being approved by the Secretary of State to carry out examinations at that testing station; and
- (i) after not less than three clear days' notice given to the council by the Secretary of State, shall make available—
  - (i) any vehicle testing station to which their designation relates; and
  - (ii) the apparatus at that testing station with which examinations are carried out, for the purpose of the carrying out by a section 66A examiner of any examination or the investigation of a complaint as to the result of an examination (whether or not the examination was carried out at that testing station).

#### **Supplementary provision relating to vehicle testing station signs**

**8F.**—(1) This paragraph applies to a sign—

- (a) exhibited outside a vehicle testing station immediately before 1st June 2003; and
- (b) of the size, colour and type shown in diagram 864 in Schedule 4 to the Traffic Signs Regulations 1994<sup>(3)</sup> (“a vehicle testing station sign”).

(2) A sign to which paragraph (1) applies shall, for the purposes of regulations 8B(h) and 8E(g), be treated as a vehicle testing station sign so long as it continues—

- (a) to be exhibited outside the vehicle testing station outside which it was exhibited immediately before 1st June 2003; and
- (b) to comply with the Traffic Signs Regulations 1994 as if those Regulations had not been revoked.

#### **Cessations: general**

**9.**—(1) An individual shall cease to be an authorised examiner—

- (a) if he dies;
- (b) if he is adjudged bankrupt or, in Scotland, has his estate sequestrated;
- (c) if he becomes a patient within the meaning of Part VII of the Mental Health Act 1983<sup>(4)</sup> or, in Scotland, becomes incapable of managing his own affairs;
- (d) if he has not attended a course of instruction under section 45(6A) when required by the Secretary of State to attend such a course;
- (e) if he has attended such a course when so required but has failed to complete it successfully; or
- (f) if he notifies the Secretary of State that he no longer wishes to be an authorised examiner.

<sup>(2)</sup> Part I of S.I. 2002/3113, to which there are amendments not relevant to these Regulations.

<sup>(3)</sup> Part I of S.I. 1994/1519 (revoked, subject to savings, by S.I. 2002/3113).

<sup>(4)</sup> 1983 c. 20. See section 94(2).

- (2) Persons in partnership shall cease to be an authorised examiner—
  - (a) if the firm is dissolved; or
  - (b) they notify the Secretary of State that they no longer wish to be an authorised examiner.
- (3) A company shall cease to be an authorised examiner if—
  - (a) in relation to the company—
    - (i) a winding-up order is made;
    - (ii) a resolution for voluntary winding-up is passed;
    - (iii) a receiver or manager of the company's undertaking is appointed; or
    - (iv) the taking of possession, by or on behalf of the holders of any debenture secured by a floating charge, or of any property of the company comprised in or subject to the charge, occurs; or
  - (b) the secretary of the company notifies the Secretary of State that the company no longer wishes to be an authorised examiner.
- (4) A council shall cease to be designated if the proper officer notifies the Secretary of State that the council no longer wish to be designated.
- (5) An individual shall cease to be a nominated tester—
  - (a) if the circumstances specified in sub-paragraph (a) of paragraph (1), or in any of sub-paragraphs (c) to (e) of that paragraph, apply in his case;
  - (b) as regards the carrying out of examinations at a particular vehicle testing station, if his nomination is revoked in relation to that testing station;
  - (c) if he notifies the Secretary of State that he no longer wishes to be a nominated tester.
- (6) A person shall cease to be an inspector—
  - (a) if the circumstances specified in sub-paragraph (a) of paragraph (1), or in any of sub-paragraphs (c) to (e) of that paragraph, apply in his case;
  - (b) as regards the carrying out of examinations at a particular vehicle testing station, if his appointment is revoked in relation to that testing station;
  - (c) if he notifies the Secretary of State that he no longer wishes to be an inspector.
- (7) Where an authorised examiner, inspector or nominated tester notifies the Secretary of State that he wishes to cease to be an authorised examiner, inspector or nominated tester (as the case may be) in respect of some only of the vehicle testing stations at which he is approved or authorised to carry out examinations, he shall cease to be an authorised examiner, inspector or nominated tester to that extent.
- (8) Where a designated council notifies the Secretary of State that it wishes to cease to be designated in respect of some only of the vehicle testing stations to which its designation relates, the council shall cease to be designated to that extent.
- (9) The date on which—
  - (a) the person to whom a notice given under paragraph (1)(f), (2)(b), (3)(b), (5)(c) or (6)(c) relates shall cease to be an authorised examiner, inspector or nominated tester (as the case may be);
  - (b) the council to which a notice given under paragraph (4) relates shall cease to be designated;
  - (c) the person to whom a notice given under paragraph (7) relates shall cease to be an authorised examiner, inspector or nominated tester (as the case may be) to any extent; or

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(d) the council to which a notice given under paragraph (8) relates shall cease to be designated to any extent,  
shall be the date (if any) specified in the notice; and, if no date is so specified, on such date as the Secretary of State may by notice specify.

**Cessations: action by Secretary of State**

**10.**—(1) The Secretary of State may at any time give to an authorised examiner, designated council, inspector or nominated tester a notice which states—

- (a) that from such date as is specified in the notice, unless the notice is cancelled before that date—
  - (i) the person shall cease to be an authorised examiner;
  - (ii) the person shall cease to be an inspector;
  - (iii) the person shall cease to be a nominated tester;
  - (iv) the person shall cease to be an authorised examiner, inspector or nominated tester (as the case may be) in respect of such vehicle testing stations as may be specified in the notice;
  - (v) the council shall cease to be designated; or
  - (vi) the council shall cease to be designated in respect of such vehicle testing stations as may be specified in the notice;
- (b) where that date is less than 35 days from the date of the notice, that the Secretary of State considers it necessary that the notice shall have early effect; and
- (c) that within 14 days from the date of the notice, the person to whom the notice relates (or any person acting on his behalf) may make to the Secretary of State, at an address specified in the notice, written representations to the effect, as the case may be—
  - (i) that the person should not cease to be, or should again become, an authorised examiner, nominated tester or inspector; or
  - (ii) that the council should not cease to be, or should again be, designated.

(2) Where a notice has been given under paragraph (1), and has not been cancelled—

- (a) the person to whom it relates shall cease or, as the case may be, cease to the specified extent, to be an authorised examiner, nominated tester or inspector; or
- (b) the council to which it relates shall cease or, as the case may be, cease to the specified extent, to be designated,

on the date specified in the notice.

**Cessations: return of documents and apparatus**

**11.**—(1) Subject to paragraph (4), a person who ceases to any extent to be an authorised examiner, inspector or nominated tester shall—

- (a) deliver to the Secretary of State, at such place and within such period as the Secretary of State may by notice or electronic communication specify; or
- (b) if the Secretary of State by notice or electronic communication so requires, permit the collection, from such premises as may be specified in the notice or communication, of,

such documents and apparatus referred to in paragraph (3) as are in the person's possession or under his control.



(2) Subject to paragraph (4), the proper officer of a council which ceases to any extent to be designated shall—

- (a) deliver to the Secretary of State, at such place and within such period as the Secretary of State may by notice or electronic communication specify; or
- (b) if the Secretary of State by notice or electronic communication so requires, permit the collection, from such premises as may be specified in the notice or communication, of,

such documents and apparatus referred to in paragraph (3) as are in the council's possession or under their control.

(3) The documents and apparatus referred to in paragraphs (1) and (2) are—

- (a) all unused forms for test certificates and notifications of the refusal of test certificates;
- (b) all copies of test certificates and notifications of the refusal of test certificates;
- (c) all other records kept in accordance with regulation 22;
- (d) the instrument of approval, authorisation or designation (as the case may be);
- (e) all apparatus supplied by or on behalf of the Secretary of State to any vehicle testing station at which examinations were carried out—
  - (i) by the person concerned; or
  - (ii) by persons appointed by the council concerned.

(4) Where—

- (a) a person cease to be an authorised examiner, an inspector or a nominated tester in respect of some only of the vehicle testing stations at which he formerly carried out examinations; or
- (b) a council ceases to be designated in respect of some only of the vehicle testing stations at which examinations were carried out by persons appointed by the council,

the Secretary of State may, by notice or electronic communication to the person or council concerned, allow him or them to retain such documents and apparatus as may be specified in the notice.”