

2014 No. 3190

ROAD TRAFFIC

The Road Traffic Act 1988 and Motor Vehicles (Driving Licences) (Amendment) Regulations 2014

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|-------------------------------|---------|---------------------------|
| <i>Made</i> | - - - - | <i>27th November 2014</i> |
| <i>Laid before Parliament</i> | | <i>8th December 2014</i> |
| <i>Coming into force</i> | - - | <i>29th December 2014</i> |

The Secretary of State, in exercise of the powers conferred by sections 89(3)(a) and (4)(b), 105(1), (2)(a)(c), (2)(ee)(d) and (3) of the Road Traffic Act 1988(e) and section 2(2) of the European Communities Act 1972(f), makes the following Regulations.

The Secretary of State is a Minister designated for the purposes of section 2(2) of the European Communities Act 1972 in relation to the licencing of drivers(g).

The Secretary of State has consulted with relevant organisations as required by section 195(2) of the Road Traffic Act 1988.

Citation and commencement

1. These Regulations may be cited as the Road Traffic Act 1988 and Motor Vehicles (Driving Licences) (Amendment) Regulations 2014 and come into force on 29th December 2014.

Amendment of the Motor Vehicles (Driving Licences) Regulations 1999

2. The Motor Vehicles (Driving Licences) Regulations 1999(h) are amended as set out in regulations 3 to 9.

3. In paragraph (1) of regulation 3 (interpretation)—

(a) in sub-paragraph (b) of the definition of “fire engine”(i), after “2005” insert “(i)”; and

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- (a) Section 89(3) was amended by the Road Traffic Act 1991 (c. 40) section 48, Schedule 4, paragraph 63 and the Road Safety Act 2006 (c. 49) section 36(1), (2)(a), (b) and (c).
- (b) Section 89(4) was amended by the Road Safety Act 2006 (c. 49) section 36(1), (3)(a), (b), (c) and (d) and by S.I. 1996/1974.
- (c) Section 105(2)(a) was substituted by S.I. 1996/1974 and amended by the Crime (International Co-operation) Act 2003 (c. 32) section 91(1), Schedule 5, paragraphs 17 and 23(a)(i).
- (d) Section 105(2)(ee) was inserted by the Road Traffic (Driver Licensing and Information Systems) Act 1989 (c. 22) section 7, Schedule 3, paragraph 14 and amended by the Road Traffic Act 1991 (c. 40), section 83, Schedule 8.
- (e) 1988 c. 52.
- (f) 1972 c. 68; section 2(2) was amended by the Legislative and Regulatory Reform Act 2006 (c. 51), section 27(1) and by the European Union (Amendment) Act 2008 (c. 7), Schedule, Part 1.
- (g) S.I. 2002/2840.
- (h) S.I. 1999/2864.
- (i) The definition of “fire engine” was inserted by S.I. 2013/1753.

- (b) in the definition of “training load package”(a)—
 - (i) in sub-paragraph (a) after “apply,” for “and” substitute “where”;
 - (ii) in sub-paragraph (a)(i) before “is” insert “it”;
 - (iii) in sub-paragraph (a)(ii) before “is” insert “it”;
 - (iv) in sub-paragraph (b) after “applies,” for “and” substitute “where”; and
 - (v) in sub-paragraph (b)(i) before “is” insert “it”.

4. In regulation 7 (competence to drive classes of vehicle: special cases) omit paragraph (1).

5. After regulation 21 (lost or defaced licences) insert—

“Exchangeable licences

21A.—(1) Where an exchangeable licence is exchanged for a licence such an exchange must be recorded on the licence and on any subsequent renewal or replacement.

(2) An exchange as described in paragraph (1) may only occur if the exchangeable licence has been surrendered to the Secretary of State.”.

6. In regulation 24 (persons by whom manoeuvres, practical and unitary tests may be conducted)(b) after paragraph (1) insert—

“(1) The Secretary of State must ensure that persons appointed as examiners for the purposes of paragraph (1)—

- (a) who were appointed on or after 19th January 2013 meet and maintain the minimum standards set out in paragraphs 1, 2.1 and 2.2 of Annex IV, and
- (b) who were appointed before 19th January 2013 meet the quality assurance and regular periodic training arrangements in place in accordance with paragraph 4 of Annex IV.

(1B) The Secretary of State must establish arrangements for authorising an examiner to conduct driving tests and ensure that such arrangements are in compliance with paragraphs 2.3, 3 and 5.1 of Annex IV.

(1C) The Secretary of State must ensure that there are in place quality assurance and regular periodic training arrangements of driving examiners in accordance with paragraph 4 of Annex IV.

(1D) In this regulation, “Annex IV” means Annex IV of Directive 2006/126/EC of the European Parliament and of the Council on driving licences(c).”.

7. In regulation 38 (further requirements at tests)(d), for paragraph (1) substitute—

“(1) Subject to paragraph (2), a person submitting to a theory test, manoeuvres test, practical test or unitary test must satisfy the residence requirement in section 97A(1)(d) of the Traffic Act as if that person were making an application under section 97, except that the requirement shall be met at the time of attending the test.”.

8. In regulation 45 (upgrading of entitlements by virtue of passing second test)—

- (a) for paragraph (1) substitute—

“(1) A person who has passed tests for a licence authorising the driving of motor vehicles included in category D and category C + E is deemed, subject to the following paragraphs

(a) The definition of “training load package” was inserted by S.I. 2013/1753.
 (b) Regulation 24 was amended by S.I. 2000/3157, S.I. 2003/2003, S.I. 2004/3168, S.I. 2005/2929, S.S.I. 2005/344, S.I. 2007/698, S.I. 2008/508, S.I. 2008/1435, S.I. 2009/788, S.I. 2011/3058 and S.S.I. 2013/119.
 (c) OJ No L 403, 30.12.06, p. 18 to which there are amendments not relevant to these Regulations.
 (d) Regulation 38(1) was amended by S.I. 2009/788. Section 47 of the Immigration Act 2014 (c.22) inserted section 97A and made relevant amendments to section 97. Section 97A(1)(d) is also amended by regulation 10(2) of these regulations.

of this regulation, competent to drive (in addition to the classes of motor vehicle in respect of which the tests were passed) vehicles included in the category D + E.”;

- (b) in paragraph (5) for “Tables A and B” substitute “Table B”; and
- (c) in paragraph (6) for “Tables A and B” substitute “Table B”.

9. In Schedule 9(a) (upgraded entitlements on passing second test)—

- (a) omit Table A; and
- (b) for Table B substitute the table set out in the Schedule to these Regulations.

Amendment of the Road Traffic Act 1988

10.—(1) The Road Traffic Act 1988 is amended as follows.

(2) In section 97A (residence requirement)(b), in subsection (1), for paragraph (d) substitute—

“(d) in any other case, the applicant is lawfully resident in the United Kingdom and—

- (i) is also normally resident in Great Britain, or
- (ii) has been attending a course of study in Great Britain during the period of 6 months ending on that date.”.

(3) In section 99 (duration of licences)(c), after subsection (7A) insert—

“(7AA) The Secretary of State may not grant a new licence to a person under subsection (7), (7ZZA) or (7A) above unless, on the date on which the licence is granted, the person is lawfully resident in the United Kingdom and—

- (a) is also normally resident in Great Britain, or
- (b) has been attending a course of study in Great Britain during the period of 6 months ending on that date.

(7AB) For the purposes of subsection (7AA) a person is not lawfully resident in the United Kingdom if the person requires leave to enter or remain in the United Kingdom but does not have it.”.

(4) In section 108 (interpretation), after subsection (1A) insert—

“(1B) For the purposes of this Part a person is normally resident in Great Britain if—

- (a) the person lives in Great Britain for at least 185 days in each calendar year because of—
 - (i) personal and occupational ties, or
 - (ii) close personal ties, or
- (b) the person has personal ties in Great Britain and occupational ties in another place in the EEA and consequently lives in turn in Great Britain and that other place.

(1C) For the purposes of this Part a person is normally resident in the United Kingdom if—

- (a) the person lives in the United Kingdom for at least 185 days in each calendar year because of—
 - (i) personal and occupational ties, or
 - (ii) close personal ties, or

(a) Schedule 9 was amended by S.I. 2014/613.

(b) Section 97A was inserted by the Immigration Act 2014 (c.22) section 46, which came into force on 14th July 2014.

(c) Amendments were made to subsection (7) by Schedule 7 to the Road Safety Act 2006 (c.49) and to subsections (7) and (7A) by S.I. 1998/1420. Relevant amendments were made in relation to the surrender and renewal of licences on the expiry of the administrative validity period by S.I. 2012/977. Equivalent residence requirements were introduced by section 47 of the Immigration Act 2014 (c.22), in respect of the grant of licences under section 97 of the Road Traffic Act 1988 (c.52).

(b) the person has personal ties in the United Kingdom and occupational ties in another place in the EEA and consequently lives in turn in the United Kingdom and that other place.

(1D) In order to be normally resident in Great Britain or the United Kingdom by virtue of subsection (1B)(b) or (1C)(b) a person must return there regularly, except when the person is living in another place in the EEA in order to carry out a task of a definite duration.

(1E) For the purposes of subsections (1B) and (1C) attendance at a university or school is not a personal or occupational tie.”.

Signed by authority of the Secretary of State for Transport

Robert Goodwill
Parliamentary Under Secretary of State
Department For Transport

27th November 2014

SCHEDULE

Regulation 9(b)

“Table B

Manual test pass in category (or sub-category):-

| (A) <i>Automatic test pass</i> | (1) <i>B</i> | (2) <i>B+E</i> | (3) <i>C1</i> | (4) <i>C</i> | (5) <i>C1+ E</i> | (6) <i>C+E</i> | (7) <i>D1</i> | (8) <i>D</i> | (9) <i>D1+E</i> | (10) <i>D+ E</i> |
|---------------------------------------|-----------------|-------------------|------------------|-----------------|-------------------------|-------------------|------------------|-----------------|--------------------|-------------------------|
| C1 | — | — | — | — | C1 | C1& C1+E | C1 | C1 | C1 | C1 |
| C | C | C | C | — | C | C | C1& C | C | C1&C | C |
| C1+E | — | — | — | C1+E | — | — | — | C1+E | C1+E | C1+ E |
| C+E | C+E | C+E | C+ E | C+E | C+E | — | C+E | C+E &D+ E | C+E | C+ E |
| D1 | — | — | D1 | D1 | D1 | D1 | — | — | — | D1 &D 1+E |
| D | D | D | D | D | D | D&D +E | D | — | D | D |
| D1+E | — | — | — | D1+E | D1+E | D1+E | — | D1+E | — | — |
| D+E | D+E | D+E | D+ E | D+E | D+E | D+E | D+E | D+E | D+E | —” |

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make further provision to implement Directive 2006/126/EC of the European Parliament and of the Council of 20 December 2006 on driving licences (“the Directive”).

Regulation 3 makes a number of minor grammatical amendments to the Motor Vehicles (Driving Licences) Regulations 1999 (“the 1999 Regulations”).

Regulation 4 removes the exemption for category C licence holders to drive category D vehicles where the category D vehicle is damaged or defective and being driven for repair or is being road tested after repair if the licence holder does not have a category D entitlement.

Regulation 5 requires that where an exchangeable licence is exchanged for a Great Britain (GB) licence such an exchange shall be marked on the GB licence.

Regulation 6 requires the Secretary of State to ensure that persons appointed as examiners meet and maintain the minimum standards which are set out in Annex IV of the Directive. It also requires that the Secretary of State establish arrangements for authorising an examiner to conduct driving tests in compliance with paragraphs 2.3, 3 and 5.1 of Annex IV and ensure that there are in place quality assurance and regular periodic training arrangements in line with the provisions of paragraph 4 of Annex IV of the Directive. Those examiners who were appointed before 19th January 2013 are only required to comply with the quality assurance and regular periodic training arrangements in accordance with paragraph 4 of Annex IV of the Directive.

Regulation 7 amends regulation 38(1) of the 1999 Regulations to take account of relevant amendments to the Road Traffic Act 1988 made by the Immigration Act 2014 and by regulation 10 of these Regulations.

Regulations 8 and 9 make amendments to ensure that only the equivalences between categories CE, DE and D which are permitted by Article 6(2)(b) of the Directive are permitted in the UK.

Regulation 10 inserts definitions and related provisions into the Road Traffic Act 1988 for the purpose of determining when a person is resident in Great Britain or the United Kingdom for driver licensing purposes in accordance with Articles 7(1)(e), 7(3)(b), 11(1) and (5) and Article 12 of the Directive. Being “normally resident” in the United Kingdom or Great Britain is a precondition to the issue of a driving licence including as a result of these amendments when applying for a new licence at the end of its administrative validity period, or when taking a driving test. In some cases, however, attending a course of study for a period of six months is permitted as an alternative to being normally resident.

An Impact Assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen. An Explanatory Memorandum and a Transposition Note are published alongside the instrument on www.legislation.gov.uk.

Copies of the Directive referred to above can be found at <http://eur-lex.europa.eu>.

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£4.25

UK2014120124 12/2014 19585

<http://www.legislation.gov.uk/id/uksi/2014/3190>

ISBN 978-0-11-112440-6



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