

SCHEDULES

SCHEDULE 2

DRIVING INSTRUCTORS

PART 2

TRANSITORY AMENDMENTS OF PART 5 RTA 1988 (BEFORE AMENDMENT BY RSA 2006)

- 16 Until the commencement of Schedule 6 to the Road Safety Act 2006, Part 5 of the Road Traffic Act 1988 (driving instruction) has effect as if it were amended as follows.
- 17 (1) Section 125 (the register of approved instructors) has effect as if it were amended as follows.
- (2) After subsection (2) insert—
- “(2A) If an applicant is aware that he is suffering from a relevant or prospective disability, his application under subsection (2) must be accompanied by written notification of the nature and extent of his disability.
- (2B) Any person who fails without reasonable excuse to comply with the requirement imposed by subsection (2A) is guilty of an offence.
- (2C) The Registrar may, in the circumstances mentioned in subsection (2D), require an applicant to submit himself for an emergency control assessment (whether or not the applicant already holds an emergency control certificate) in connection with his application under subsection (2).
- (2D) Those circumstances are that the Registrar has reasonable grounds for believing that the person would be unable to take control of a motor car of a prescribed class if an emergency arose while he was giving driving instruction in such a motor car.”
- (3) In subsection (3)—
- (a) omit the “and” at the end of paragraph (d);
- (b) after paragraph (d) insert—
- “(da) in the case of an applicant who has been required under subsection (2C) to submit himself for an emergency control assessment, he holds a current emergency control certificate, and”.
- (4) In subsection (5), for the words from “condition” to the end substitute “following conditions—
- (a) that, so long as his name is on the register, the person will, if at any time required to do so by the Registrar, submit himself for—

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- (i) such test of continued ability and fitness to give instruction in the driving of motor cars (which may consist of practical and other means of assessment) as may be prescribed;
- (ii) an emergency control assessment (whether or not the person already holds an emergency control certificate) on the day (within such period as may be prescribed) and at the place specified by the Registrar; and

- (b) that, so long as his name is on the register, if instruction in the driving of a motor car is to be given in circumstances where there is a reasonable expectation of an emergency arising which necessitates the instructor taking control of the motor car, the person will only give such instruction if he would be able to take control of the motor car if such an emergency arose while he was giving the instruction.”

(5) After subsection (5) insert—

“(5A) The Registrar may impose a requirement as mentioned in subsection (5)(a)(ii) only in the circumstances mentioned in subsection (2D).”

(6) After subsection (7) insert—

“(7A) A person shall be exempt from the condition mentioned in subsection (3)(da) if—

- (a) the Secretary of State is satisfied that satisfactory provision is made by the law of Northern Ireland for purposes corresponding to section 133A, and
- (b) the person satisfies the Registrar that he holds a current certificate granted under that law which corresponds to an emergency control certificate granted under section 133A.”

(7) After subsection (8) insert—

“(8A) Subsection (8B) applies if—

- (a) a person undergoes an emergency control assessment in accordance with a requirement imposed under subsection (2C) or as mentioned in subsection (5)(a)(ii),
- (b) the assessor refuses to grant the applicant an emergency control certificate, and
- (c) as a result the person is not registered, or the person’s name is removed from the register (as the case may be).

(8B) The person may not make a further application for registration before the end of—

- (a) the period of 6 months beginning with the date of the emergency control assessment mentioned in subsection (8A)(a), or
- (b) such other period as may be prescribed,

unless the Registrar is satisfied that there is good reason for permitting such an application before the end of that period.”

(8) Omit subsection (9).

(9) In subsection (10), for the words after “In this Part of this Act” substitute “—
Community licence” has the same meaning as in Part 3 of this Act;

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“disability” means a want of physical ability affecting the driving of motor cars; and

(a) “relevant disability”, in relation to a person, means any prescribed disability or any other disability likely to cause the driving of a motor car by him to be a source of danger to the public;

(b) “prospective disability”, in relation to a person, means any other disability which, at the material time, is not of such a kind that it is a relevant disability but, by virtue of the intermittent or progressive nature of the disability or otherwise, may become a relevant disability in the course of time;

“emergency control assessment” and “emergency control certificate” mean an assessment and a certificate under section 133A.”

18 Part 5 has effect as if sections 125A and 125B (registration of disabled persons and supplementary provision) were omitted.

19 Section 126 (duration of registration) has effect as if subsection (4) were omitted.

20 (1) Section 127 (extension of duration of registration) has effect as if it were amended as follows.

(2) In subsection (3)—

(a) in the opening words, omit “Except in the case of a registered disabled instructor,”;

(b) in paragraph (a), for “such test as is mentioned in section 125(5)” substitute “such test or assessment as is mentioned in section 125(5)(a)(i) or (ii)”;

(c) omit the “and” at the end of paragraph (d);

(d) after paragraph (d) insert—

“(da) that, in the case of a person who—

(i) when he applied to be registered, was required under section 125(2C) to submit himself for an emergency control assessment, or

(ii) at any time during the period mentioned in paragraph (a) was required as mentioned in section 125(5)(a)(ii) to submit himself for such an assessment,

he holds a current emergency control certificate, and”.

(3) Omit subsection (3A).

(4) In subsection (4)—

(a) in paragraph (a), omit “in the case of its retention by virtue of subsection (3) above,”;

(b) in paragraph (a), for “condition” substitute “conditions”;

(c) omit the “and” at the end of paragraph (a);

(d) omit paragraph (b).

21 (1) Section 128 (removal of names from register) has effect as if it were amended as follows.

(2) In subsection (2)—

(a) in the opening words, omit “Except in the case of a registered disabled instructor,”;

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- (b) in paragraph (c), for “test such as is mentioned in section 125(5)” substitute “test or assessment such as is mentioned in section 125(5)(a)(i) or (ii)”;
 - (c) after paragraph (d) insert—
 - “(da) that an assessor refused to grant him an emergency control certificate on completing an emergency control assessment of him following a requirement imposed as mentioned in section 125(5)(a)(ii),
 - (db) that he gave instruction in the driving of a motor car in breach of the condition in section 125(5)(b) (ability to take control of motor car in an emergency),”.
 - (3) Omit subsection (2A).
 - (4) In subsection (8)(b), for “(5)” substitute “(5)(a)(i)”.
 - (5) Omit subsection (9).
- 22 (1) Section 129 (licences for giving instruction so as to obtain practical experience) has effect as if it were amended as follows.
- (2) In subsection (1), for the words from “either” to the end substitute “such part of the examination referred to in section 125(3)(a) as consists of a practical test of ability and fitness to instruct”.
 - (3) After subsection (1) insert—
 - “(1A) An application for a licence to give paid instruction in the driving of a motor car must be made to the Registrar, in the manner determined by the Secretary of State, accompanied by particulars so determined.
 - (1B) The Registrar may, in the circumstances mentioned in subsection (1C), require the applicant to submit himself for an emergency control assessment in connection with the application.
 - (1C) Those circumstances are that the Registrar has reasonable grounds for believing that the person in question would be unable to take control of a motor car of a prescribed class if an emergency arose while he was giving driving instruction in such a motor car.”
 - (4) For subsection (2) substitute—
 - “(2) Where a person duly applies for a licence, the Registrar must, on payment of such fee, if any, as may be prescribed, grant to the applicant a licence to give paid instruction in the driving of a motor car if the Registrar is satisfied—
 - (a) that the applicant has passed the other parts of the examination referred to in subsection (1),
 - (b) that the conditions set out in section 125(3)(b), (c), (d) and (e) are fulfilled in the applicant’s case, and
 - (c) in the case of an applicant who has been required under subsection (1B) to submit himself for an emergency control assessment, he holds a current emergency control certificate.”
 - (5) In subsection (5), omit “, subject to subsection (5A) below,”.
 - (6) After subsection (5) insert—

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“(5ZA) Those conditions may (in particular) include—

- (a) a condition requiring the person to whom the licence was granted, if required to do so by the Registrar at any time when the circumstances mentioned in subsection (1C) apply, to submit himself for an emergency control assessment (whether or not the person already holds an emergency control certificate) on such day (within such period as may be prescribed) and at such place as may be specified by the Registrar;
- (b) a condition requiring that, if instruction in the driving of a motor car is to be given in circumstances where there is a reasonable expectation of an emergency arising which necessitates the instructor taking control of the car, the person will only give such instruction if he would be able to take control of the car if such an emergency arose while giving the instruction.”

(7) Omit subsections (5A) and (5B).

23 (1) Section 130 (revocation of licence) has effect as if it were amended as follows.

(2) In subsection (2)—

- (a) in the opening words omit “Except in the case of a licence granted by virtue of subsection (2)(b) of section 129 of this Act,”;
- (b) omit the “or” at the end of paragraphs (a) and (b);
- (c) after paragraph (b) insert—
 - “(ba) that an assessor refused to grant him an emergency control certificate on completing an emergency control assessment of him following a requirement imposed as mentioned in section 129(5ZA)(a), or”.

(3) Omit subsection (2A).

24 (1) Section 133A (assessment of ability to control a motor car in an emergency) has effect as if it were amended as follows.

(2) In subsection (2)—

- (a) in paragraph (a), for “class covered by his disabled person’s driving licence” substitute “prescribed class”;
- (b) in paragraph (b), for “class covered by his disabled person’s driving licence” substitute “prescribed class”;
- (c) in the closing words, for “an appropriate” substitute “a”.

(3) In subsection (6)—

- (a) in paragraph (a), for “class covered by his disabled person’s limited driving licence” substitute “prescribed class”;
- (b) in paragraph (b), for “class covered by his disabled person’s limited driving licence” substitute “prescribed class”.

(4) In subsection (7)(a), omit “covered by his disabled person’s limited driving licence”.

(5) After subsection (9) insert—

“(10) In this Part, “modifications”, in relation to a motor car, includes equipment.”

(6) In the heading, omit “disabled person’s”.

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- (7) In the italic cross-heading before section 133A omit “Disabled Persons:”.
- 25 (1) Section 133B (further assessments) has effect as if it were amended as follows.
- (2) Omit subsection (1).
- (3) After subsection (2) insert—
- “(2A) A person may, for the purpose of obtaining an emergency control certificate, apply to undergo a further emergency control assessment if—
- (a) he has been required to submit himself for an emergency control assessment—
- (i) under section 125(2C) or 129(1B), or
- (ii) as mentioned in section 125(5)(a)(ii) or 129(5ZA),
- (b) on completing that assessment, the assessor refused to grant him an emergency control certificate, and
- (c) the application for the further assessment is made in such circumstances as may be prescribed.”
- (4) Omit subsection (3).
- (5) In subsection (4), for “subsection (1) above” substitute “subsection (5A)”.
- (6) After subsection (5) insert—
- “(5A) A person may not apply to undergo a further emergency control assessment under subsection (4) until after the end of—
- (a) the period of six months beginning with the date of his most recent previous assessment, or
- (b) such other period as may be prescribed by regulations,
- unless the Registrar considers it appropriate for the application to be made at such earlier time as may be specified by the Registrar.”
- 26 (1) Section 133C (duty to disclose further disability) has effect as if it were amended as follows.
- (2) In subsection (1)—
- (a) for paragraph (a) substitute—
- “(a) persons whose names are in the register, and”;
- (b) in paragraph (b), omit “granted by virtue of subsection (2)(b) of that section”.
- (3) In subsection (2)(a), for “125A(3)” substitute “125(2A), 129(1A)”.
- 27 (1) Section 133D (offences relating to giving by disabled person of paid driving instruction) has effect as if it were amended as follows.
- (2) For subsection (1) substitute—
- “(1) This section applies to—
- (a) persons whose names are in the register, and
- (b) persons who hold licences under section 129 of this Act,
- who have undergone emergency control assessments in accordance with a requirement imposed under section 125(2C) or 129(1B) or as mentioned in section 125(5)(a)(ii) or 129(5ZA)(a).”

(3) After subsection (3) insert—

“(3A) Subsection (3) does not apply if the person to whom the instruction is given holds a full licence granted under Part 3 which is not limited by virtue of a notice served under section 92(5)(b).”

(4) In the heading, omit “by disabled person”.

28 Part 5 has effect as if after section 133D there were inserted—

“133E Direction to disregard emergency control assessment requirement

(1) This section applies where a person has been required—

- (a) under section 125(2C) or 129(1B), or
 - (b) as mentioned in section 125(5)(a)(ii) or 129(5ZA),
- to submit himself for an emergency control assessment.

(2) At any time before the assessment takes place the Registrar may withdraw the requirement (in which case this Part applies as if the requirement had never been imposed).

(3) At any time after the assessment takes place the Registrar may direct that the requirement is to be disregarded for the purposes of this Part (and accordingly any condition that the person holds an emergency certificate is to cease to apply).

(4) Notice of—

- (a) the withdrawal of a requirement under subsection (2), or
- (b) a direction under subsection (3),

must be given to the person on whom the requirement was imposed.”

29 (1) Section 142 (index to Part 5) has effect as if the index were amended as follows.

(2) Omit the following expressions and the corresponding relevant provisions—

- “Appropriate motor car”;
- “Disabled person’s limited driving licence”;
- “Registered disabled instructor”.

(3) In the entry for the expressions “disability, prospective disability and relevant disability”, in the corresponding relevant provision, for “125A(8)” substitute “125(10)”.

(4) In the entry for the expressions “emergency control assessment and emergency control certificate”, in the corresponding relevant provision, for “125A(8)” substitute “125(10)”.