STATUTORY RULES OF NORTHERN IRELAND

2010 No. 228

ROAD TRAFFIC AND VEHICLES

The Motor Vehicles (Driving Instruction) (Trainee Licence) Regulations (Northern Ireland) 2010

Made - - - - *28th June 2010*

Coming into operation - *2nd August 2010*

CONTENTS

1. Citation and commencement
2. Interpretation

PART 1
TRAINEE LICENCE SCHEME

3. Application for a trainee licence
4. Trainee licence
5. Refusal to grant a trainee licence
6. Duration of trainee licence
7. Conditions subject to which trainee licences are granted
8. Revocation of licence

PART 2
INSTRUCTIONAL ABILITY TEST

9. Instructional ability and fitness test
10. Motor car to be provided for practical part of examination

PART 3
SUPPLEMENTARY

11. Decisions
12. Appeals
13. Fees
14. Repayment of fees
15. Form of licence
16. Revocations

SCHEDULE 1 — RECORD OF INSTRUCTION GIVEN BY LICENCE HOLDER
SCHEDULE 2 — FORM OF LICENCE

The Department of the Environment makes the following Regulations, in exercise of the powers conferred upon it by Articles 132(2)(**a**), 135 and 218(1) of the Road Traffic (Northern Ireland) Order 1981(**b**):

Citation and commencement

1. These Regulations may be cited as the Motor Vehicles (Driving Instruction)(Trainee Licence) Regulations (Northern Ireland) 2010 and shall come into operation on 2nd August 2010.

Interpretation

2. In these Regulations

"approved driving instructor" means a person whose name is entered in the register established under Article 51 of the Order of 2007;

"community licence" means a document issued in respect of a member State other than the United Kingdom by an authority of that or another member State (including the United Kingdom) authorising the holder to drive a motor vehicle, not being—

(a) a document containing a statement to the effect that that or a previous document was issued in exchange for a document issued in respect of a State other than a member State, or

(b) a document in any of the forms for an international driving permit annexed to the Paris Convention on Motor Traffic of 1926, the Geneva Convention on Road Traffic of 1949 or the Vienna Convention on Road Traffic of 1968;

"current licence" means a licence of one of the following kinds—

(i) a current licence to drive a motor car granted under Article 13(1) of the Order of 1981;

(ii) a current licence to drive a motor car granted under the corresponding law in force in Great Britain; or

(iii) a Community licence by which the holder is authorised to drive a motor car in Northern Ireland,

and that, during the period of six years ending with the day on which the application is made, one or more of the following requirements have been satisfied in relation to him for the periods amounting in the aggregate to at least four years—

(aa) he has held a current licence of one of the kinds aforesaid,

(bb) after having passed the test of competence prescribed under Article 5(1) of the Order of 1981 or, as the case may be, the law for the time being in force in Great Britain corresponding to that Article, to drive a motor vehicle, he has held a current provisional licence to drive a motor vehicle,

(cc) he has held a current foreign licence, that is to say, a document issued under the law of a country or territory other than an EEA state (within the meaning of the Order of 1981) authorising the holder to drive a motor vehicle in that country;

"Department" means the Department of the Environment;

(**a**) This was partially repealed by the S.R. 2010 No. 226 (C. 13) The Road Traffic (2007 Order) (Commencement No. 5) Order (Northern Ireland) 2010

(**b**) S.I. 1981/154 (N.I. 1)

"driving ability and fitness test" means the practical test of ability and fitness to drive referred to in the definition of "examination" and the nature of which is prescribed in the Motor Vehicles (Driving Instruction) Regulations (Northern Ireland) 2010(**a**);

"examination" means the examination of ability to give instruction in the driving of motor cars and for the purpose of these Regulations shall consist of the test of driving theory and hazard perception, the driving ability and fitness test and the instructional ability and fitness test;

"examiner", in relation to part of the examination or the continued ability and fitness test, means an officer of the Department appointed to conduct that part of the examination or that test;

"instructional ability and fitness test" means the practical test of ability and fitness to give instruction in the driving of motor cars referred to in the definition of "examination" and the nature of which is prescribed in regulation 9;

"the Order of 1981" means the Road Traffic (Northern Ireland) Order 1981;

"the Order of 1996" means the Road Traffic Offenders (Northern Ireland) Order 1996(**b**);

"the Order of 2007" means the Road Traffic (Northern Ireland) Order 2007(**c**);

"the register" means the register of approved driving instructors established under Article 132 (1) of the Order of 1981;

"the Registrar" means the officer of the Department by whom the register is, on behalf of the Department, compiled and maintained;

"theory test" means the test of driving theory and hazard perception referred to in the definition of "examination" the nature of which is prescribed in the Motor Vehicles (Driving Instruction) Regulations (Northern Ireland) 2010; and

"trainee licence" means a licence to give instruction in the driving of a motor car granted by the Department under Article 135(1) of the Order of 1981.

PART 1

TRAINEE LICENCE SCHEME

Application for a trainee licence

3.—(1) An application for a trainee licence shall be made in such form and contain such information as the Department may determine.

(2) A person shall be deemed to have made an application on the date that his application and the fee prescribed by these Regulations are received by the Registrar.

Trainee licence

4.—(1) An applicant for a trainee licence shall apply to the Registrar who, subject to regulation 5, shall grant a licence on being satisfied that the applicant—

(a) holds a current licence;

(b) is a fit and proper person to hold a licence;

(c) has passed the theory test and the driving ability and fitness test;

(d) has passed the driving ability and fitness test after passing the theory test;

(**a**) S.R. 2010 No. 227
(**b**) S.I. 1996 No. 1320 (N.I. 10)
(**c**) S.I 2007/916 (N.I. 10)

(e) has passed the driving ability and fitness test on his first, second or third attempt after he had passed the theory test;

(f) makes the application within two years after passing the theory test;

(g) has not failed the instructional ability and fitness test more than twice since he passed the theory test; and

(h) submits with his application for a licence the name, address and registration number of the approved driving instructor who has consented to take responsibility for his supervision in accordance with regulation 7(3) (and the counter-signature of the application by that approved driving instructor shall be taken as sufficient evidence of such consent).

(2) The Registrar shall also be satisfied that the approved driving instructor referred to in paragraph (1)(h) is fit and able to undertake responsibility for the supervision, and in determining whether or not he is able to undertake that responsibility the Registrar shall have regard to the number of licence holders in respect of whom he has already consented to undertake similar responsibility.

Refusal to grant a trainee licence

5.—(1) The Registrar may refuse to grant a trainee licence to an applicant to whom two or more such trainee licences have previously been issued.

(2) Where the Registrar refuses to grant a trainee licence under regulation 4 or paragraph (1) he shall give written notice of the decision to the applicant and shall state the grounds for the refusal.

Duration of trainee licence

6.—(1) Subject to paragraph (2) and regulation 7 a trainee licence shall remain in force until—

(a) the expiration of a period of six months commencing on the date of issue; or

(b) the day immediately following the day on which the holder of the trainee licence failed the instructional ability and fitness test at the third attempt, whichever shall first occur.

(2) Where a person applies for a new trainee licence in substitution for a trainee licence held by him and current at the date of the application, the previous trainee licence shall not expire until—

(a) the commencement of the new trainee licence; or

(b) if the Registrar decides to refuse the application, until the time limited for an appeal under regulation 12 against the decision has expired and, if such an appeal is duly brought, it is finally disposed of.

Conditions subject to which trainee licences are granted

7.—(1) A trainee licence shall be granted subject to such of the conditions specified in paragraphs (2) to (4) as apply to it.

(2) A trainee licence shall be subject to the following conditions, namely that the trainee licence holder must—

(a) for one-fifth of the total time he spends giving instruction in the driving of a motor car, receive direct supervision from an approved driving instructor present with him in the car;

(b) maintain, for each working day while the licence is in force, a record in the form specified in Schedule 1 of the time he spends giving such instruction;

(c) sign the record at the end of every working day and, if he has received supervision from an approved driving instructor on any day, ensure that the instructor also signs the record for that day;

(d) produce on request, for examination by a person authorised by the Registrar in that behalf, all the records maintained under sub-paragraph (b) during the period ending on

the day before the date of the request and further, if required to do so, deliver those records to such a person for retention by him; and

(e) not later than seven days after the expiry of the trainee licence, deliver to a person authorised by the Registrar in that behalf all the records maintained under sub-paragraph (b) during the period when the trainee licence was in force, other than such records as have been delivered under sub-paragraph (d) and not returned to him.

(3) The holder may give instruction in the driving of a motor car only on behalf of the approved driving instructor identified in the trainee licence.

(4) Every trainee licence is subject to the condition that, in the event of the trainee licence holder arranging to have the supervision referred to above, or any part thereof, undertaken by a different approved driving instructor from the person named in his application, he must submit to the Registrar full details of any consequential changes to the particulars submitted under regulation 4(1)(h) resulting from the new arrangement together with the consent (in any form permitted under regulation 4(1)(h) of the new approved driving instructor to that arrangement.

(5) In this regulation—

"working day" means any day during which the licence holder gives paid instruction in the driving of a motor car.

Revocation of licence

8.—(1) The Registrar may revoke a licence at any time during the currency of the said trainee licence if he is satisfied that the trainee licence holder—

(a) did not hold a current licence;

(b) was disqualified under Article 35 of the Order of 1996;

(c) has ceased to be a fit and proper person to hold a licence;

(d) was granted a licence by mistake or obtained a licence by fraud; or

(e) has failed to comply with any of the conditions subject to which the licence was granted.

(2) Where the Registrar decides to revoke a licence he shall give written notice to the holder stating the grounds for revocation.

PART 2

INSTRUCTIONAL ABILITY TEST

Instructional ability and fitness test

9.—(1) The instructional ability and fitness test shall be a test in which the candidate is required to demonstrate his knowledge and ability by giving practical driving instruction to an examiner as specified in paragraph (2), as if the examiner were—

(a) a novice or partly-trained pupil, and then

(b) a pupil who is approaching driving test standard.

(2) The candidate shall, in respect of one or both of those levels as the examiner shall specify, instruct the examiner in such of the following subjects as the examiner shall specify as the basis of the instruction—

(a) explaining the controls of the vehicle;

(b) moving off;

(c) making normal stops;

(d) reversing, and while doing so entering limited openings to the right or to the left;

(e) turning to face the opposite direction, using forward and reverse gears;

(f) parking close to the kerb, using forward and reverse gears;

(g) using mirrors and explaining how to make an emergency stop;

(h) approaching and turning corners;

(i) judging speed, and making normal progress;

(j) road positioning;

(k) dealing with road junctions;

(l) dealing with crossroads;

(m) dealing with pedestrian crossings;

(n) meeting, crossing the path of, overtaking and allowing adequate clearance for, other vehicles, other road users; and

(o) giving correct signals.

(3) The candidate's knowledge and ability shall be assessed on—

(a) the method, clarity, adequacy and correctness of his instruction;

(b) the observation and correction of the examiner's driving errors; and

(c) his manner generally.

(4) The candidate shall, during the test, allow to travel in the vehicle—

(a) the person authorised to conduct the test; and

(b) any person or persons authorised by the Department for the purpose of supervising the test or otherwise.

Motor car to be provided for practical part of examination

10.—(1) A candidate for the instructional ability and fitness test shall provide, at his own expense, a motor car for the purposes of that test, in respect of which the following conditions are satisfied.

(2) The vehicle must have four wheels and be either—

(a) constructed solely for the carriage of passengers and their effects and fitted with a rigid roof, with or without a sliding panel; or

(b) a dual purpose vehicle as defined in Article 2(2) of the Order of 1981.

(3) The vehicle must—

(a) have a readily adjustable driving seat and a seat for a forward-facing front passenger;

(b) have a steering wheel on its off-side;

(c) be provided with a means whereby the driver may, independently of the use of the accelerator or the brakes, gradually vary the proportion of the power being produced by the engine which is transmitted to the road wheels;

(d) have fitted for use with the driver's seat and front passenger seat a properly anchored and functioning three-point seat belt;

(e) have fitted as an integral part of the front passenger seat a head restraint which satisfies the requirements of Council Directive 78/932/EEC(**a**), and be fitted with head restraints on the driver's seat and the forward facing front seats;

(f) in the case of a vehicle with forward facing seats behind the driver's seat an inertia reel belt for one of those seats nearest either side of the vehicle and a three point belt, a lap belt, a disabled person's belt or a child restraint for at least one other of those seats;

(g) be fitted with an interior rear-view mirror providing adequate rearward vision from the front passenger seat; and

(h) be otherwise suitable for the purposes of the test.

(**a**) Council Directive of 16 October 1978 on the approximation of laws relating to head restraints of seats of motor vehicles (O.J. No. L325,20.11.78, p.1)

(4) In the case of a vehicle provided for the purposes of an instructional ability and fitness test, there must be in force in relation to the use of the vehicle a policy of insurance that—

(a) complies with the requirements of Article 92 of the Order of 1981 in relation to the candidate as driver of the vehicle;

(b) complies with the requirements of that Article in relation to the examiner as the driver of the vehicle; and

(c) insures the examiner as the driver of the vehicle in respect of liability for damage to the vehicle during the test,

and throughout the test there shall be displayed in a conspicuous manner on the front and on the back of the vehicle distinguishing marks in the form referred to in regulation 12(1)(b) of the Motor Vehicles (Driving Licences) Regulations (Northern Ireland) 1996.

PART 3

SUPPLEMENTARY

Decisions

11. A decision of the Registrar under regulation 8 shall take effect—

(a) where no appeal under regulation 12 is brought against the decision within the time limited for the appeal, on the expiration 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;

(c) where such an appeal is brought and not withdrawn or struck out as aforesaid, if and when the appeal is dismissed, and not otherwise.

Appeals

12. A person who is aggrieved by a decision of the Registrar—

(a) to refuse his application for a trainee licence; or

(b) to revoke his trainee licence;

may by notice in writing appeal to the Department within a period of fourteen days from the date of the notice of the decision or such longer period as the Department may in special circumstances allow, and the Department may make such determination as it thinks fit having regard to the circumstances.

Fees

13.—(1) The fee to be paid by a person applying for a trainee licence or a renewal thereof shall be £120.

(2) The fee to be paid by a person applying for the instructional ability and fitness test shall be £138.

Repayment of fees

14.—(1) The fee paid in pursuance of regulation 13(2) shall be repaid—

(a) if no appointment for a test is made or the appointment made is subsequently cancelled by the Department;

(b) if the person for whom the appointment is made gives to the Department notice cancelling the appointment of not less than three clear days before the date of the appointment;

(c) if the person for whom the appointment is made keeps the appointment but the test does not take place, or is not completed, for reasons attributable neither to him nor to the vehicle in which the test was to take place; or

(d) if the person for whom the appointment is made satisfies the Department that he cannot, or, as the case may be, could not reasonably be present for testing on the date of the appointment due to exceptional circumstances occurring not more than seven days before the said date and of which notice is given within three days of the occurrence thereof to the Department at the test centre where the test is, or as the case may be, was to be held.

(2) In this regulation "exceptional circumstances" means an accident, a fire, a failure in the supply of essential services or other unexpected happening (excluding a breakdown or mechanical defect in a vehicle or non-delivery of spare parts therefor).

Form of licence

15. A licence shall be in the form set out in Schedule 2.

Revocations

16. Regulations 16 to 22 of, and Schedule 1 to, the Motor Cars (Driving Instruction) Regulations (Northern Ireland) 2004(**a**) and regulations 1 and 2 of those Regulations in so far as they relate to the provisions aforesaid are revoked.

Sealed with the Official Seal of the Department of the Environment on 28th June 2010.

L.S.

Deirdre Kenny
A senior officer of the
Department of the Environment

(**a**) S.R. 2004 No. 179

SCHEDULE 1

Regulation 7(2)(b)

RECORD OF INSTRUCTION GIVEN BY LICENCE HOLDER

1. The name and address of the holder of the licence.

2. The number of the licence.

3. The name and address of the approved driving instructor responsible for supervision of the licence holder.

4. In respect of each working day -

(a) the date;

(b) the total number of hours spent giving instruction from the establishment;

(c) the periods spent under the supervision of the approved driving instructor;

(d) the signature of the holder of the licence; and

(e) the counter-signature of the person referred to in paragraph (3) of regulation 7.

SCHEDULE 2

Regulation 15

FORM OF LICENCE

Photograph

DEPARTMENT OF THE ENVIRONMENT

REGISTER OF APPROVED DRIVING INSTRUCTORS

TRAINEE DRIVING INSTRUCTOR

Licence to give instruction in driving motor cars

Licence number .....

Name of holder.....

Name of supervising Approved Driving Instructor .....

ADI Number .....

Address.....

.....

.....

Date of expiry of licence.....

Issued under the Road Traffic (Northern Ireland) Order 1981

Signature.....

Registrar

Date of Issue.....

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke and reenact those provisions of the Motor Cars (Driving Instruction) Regulations (Northern Ireland) 2004 dealing with trainee licences. The Regulations provide for the licensing of trainee instructors in order to gain practical experience before undertaking the instructional ability and fitness test.

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