

Driving Instructors (Registration) Bill

EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Department for Transport with the consent of Sir David Amess, the Member in charge of the Bill, are published separately as Bill 125 – EN.

Driving Instructors (Registration) Bill

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TO

Make provision about the registration of driving instructors.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Amendments to existing regime

1 Re-entry in the register following expiry of registration

- (1) Part 5 of the Road Traffic Act 1988 (driving instruction) is amended as follows.
- (2) In section 126 (duration of registration), omit subsection (3).
- (3) After that section insert—

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“126A Re-entry in the register following expiry of registration

- (1) This section applies where a person whose name has been removed from the register under section 126(1) applies under section 125(2) for the person’s name to be entered again in the register.
- (2) The Registrar is not to regard the condition specified in section 125(3)(a) as fulfilled unless the Registrar is satisfied that—
 - (a) the person has again passed the examination mentioned in section 125(3)(a) since the removal of the person’s name, or
 - (b) the person falls within subsection (3) or (4).
- (3) A person falls within this subsection if—
 - (a) the person’s application is made within the period of one year beginning with the removal of the person’s name (“the one year period”), and
 - (b) the relevant conditions are fulfilled.
- (4) A person falls within this subsection if—
 - (a) the person’s application is made after the end of the one year period but within the period of four years beginning with the removal of the person’s name,

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- (b) the relevant conditions are fulfilled,
 - (c) the person has passed a continued ability and fitness test since the removal of the person's name, and
 - (d) the number of times (if any) that the person has failed to pass such a test since that removal is less than three. 5
- (5) For the purposes of subsections (3)(b) and (4)(b), "the relevant conditions" are –
- (a) that the person did not refuse to undergo –
 - (i) a continued ability and fitness test, or
 - (ii) an emergency control assessment, 10
 which the person was required to undergo during the period of four years ending with the removal of the person's name from the register, and
 - (b) that, where the person did undergo one or more continued ability and fitness tests during that period, the person passed the last such test. 15
- (6) In this section "continued ability and fitness test" means a test of continued ability and fitness to give instruction in the driving of motor cars which is prescribed for the purposes of section 125(5)(a)(i)."
- 2 Voluntary removal from the register and subsequent re-entry 20**
- (1) Part 5 of the Road Traffic Act 1988 (driving instruction) is amended as follows.
- (2) After section 128 insert –
- "128AZA Voluntary removal from the register**
- (1) The Registrar must remove a person's name from the register if the person applies to the Registrar for the removal. 25
 - (2) An application is to be made in such manner, and accompanied by such particulars, as the Secretary of State may determine.
 - (3) The Registrar must give notice in writing of the removal to the applicant.
 - (4) The Registrar may restore a person's name in the register where its removal under this section was made by mistake or procured by fraud. 30
 - (5) Where a person's name is so restored, the removal and restoration are ignored for the purposes of section 126(1) (duration of registration).
- 128AZB Re-entry in the register following voluntary removal**
- (1) This section applies where a person whose name has been removed from the register under section 128AZA applies under section 125(2) for the person's name to be entered again in the register. 35
 - (2) The Registrar is not to regard the condition specified in section 125(3)(a) as fulfilled unless the Registrar is satisfied that –
 - (a) the person has again passed the examination mentioned in section 125(3)(a) since the date of the removal of the person's name, or
 - (b) the person falls within subsection (3) or (4). 40

- (3) A person falls within this subsection if—
- (a) the person’s application is made—
 - (i) within the period of one year beginning with the date of the removal of the person’s name (“the one year period”), and 5
 - (ii) within the period of four years beginning with the date when the person last passed the examination mentioned in section 125(3)(a) or a continued ability and fitness test, and
 - (b) the relevant conditions are fulfilled. 10
- (4) A person falls within this subsection if—
- (a) the person’s application is made—
 - (i) within the one year period but not within the period mentioned in subsection (3)(a)(ii), or
 - (ii) after the end of the one year period but within the period of four years beginning with the date of the removal of the person’s name, 15
 - (b) the relevant conditions are fulfilled,
 - (c) the person has passed a continued ability and fitness test since the date of the removal of the person’s name, and 20
 - (d) the number of times (if any) that the person has failed to pass such a test since that date is less than three.
- (5) For the purposes of subsections (3)(b) and (4)(b), “the relevant conditions” are—
- (a) that the person did not refuse to undergo— 25
 - (i) a continued ability and fitness test, or
 - (ii) an emergency control assessment,
 which the person was required to undergo during the period of four years ending with the date of the removal of the person’s name from the register, and 30
 - (b) that, where the person did undergo one or more continued ability and fitness tests during that period, the person passed the last such test.
- (6) In this section “continued ability and fitness test” means a test of continued ability and fitness to give instruction in the driving of motor cars which is prescribed for the purposes of section 125(5)(a)(i).” 35
- (3) In section 128 (removal of names from the register), in subsections (6), (6A) and (7), after “the register” insert “under this section”.
- (4) In section 131 (appeals), at the end insert—
- “(6) In subsections (1)(c) and (4D) the references to removal of a name from the register do not include removal under section 128AZA (voluntary removal).” 40

Amendments to existing regime as amended by the Road Safety Act 2006

3 Re-entry in the register following expiry of registration

- (1) Schedule 6 to the Road Safety Act 2006 (which makes amendments to Part 5 of the Road Traffic Act 1988 which are not in force) is amended as follows.
- (2) In paragraph 8, in section 126 of the Road Traffic Act 1988 (duration of registration) as substituted by that paragraph, in subsection (4) for the words from “he” to the end substitute “—
- (a) the person is required again to fulfil such of the conditions prescribed under section 125ZA(1) as may be prescribed, and
- (b) if the registration is in relation to the giving of driving instruction, the person, if required by regulations to do so, must also pass such an examination of continued ability and fitness referred to in section 125ZA(4)(a) as may be prescribed.”
- (3) After paragraph 8 insert—
- “8A If section 126A (re-entry in the register following expiry of registration) (which is inserted by section 1 of the Driving Instructors (Registration) Act 2016) is in force, omit section 126A.”

4 Voluntary termination of registration and subsequent re-registration

- (1) Schedule 6 to the Road Safety Act 2006 (which makes amendments to Part 5 of the Road Traffic Act 1988 which are not in force) is amended as follows.
- (2) After paragraph 10 insert—
- “10A After that section insert (or if sections 128AZA and 128AZB (which are inserted by section 2 of the Driving Instructors (Registration) Act 2016) are in force, for sections 128AZA and 128AZB substitute) —
- “128AZA Voluntary termination of registration**
- (1) The Registrar must terminate a person’s registration in relation to the giving of a description of driving instruction if the person applies to the Registrar for the termination of that registration.
- (2) An application is to be made in such manner, and accompanied by such particulars, as the Secretary of State may determine.
- (3) The Registrar must give notice in writing of the termination to the applicant.
- (4) The Registrar may restore a person’s registration where its termination under this section was made by mistake or procured by fraud.
- (5) Where a person’s registration is so restored, the termination and restoration are ignored for the purposes of section 126(1) (duration of registration).
- (6) Where a person whose registration in relation to the giving of a description of driving instruction has been terminated under this section applies under section 125 to be registered again in

- relation to the giving of that description of driving instruction, the person –
- (a) is required again to fulfil such of the conditions prescribed under section 125ZA(1) as may be prescribed, and 5
 - (b) if required by regulations to do so, must also pass such an examination of continued ability and fitness referred to in section 125ZA(4)(a) as may be prescribed.””
- (3) In paragraph 10, in section 128 of the Road Traffic Act 1988 (termination of registration) as substituted by that paragraph, in subsections (4), (6), (7) and (8) after “person’s registration” insert “under this section”. 10
- (4) In paragraph 11, in section 128A of that Act (power to give direction as to further applications) as inserted by that paragraph, at the end insert –
- “(4) In subsection (1)(c) the reference to termination of a person’s registration does not include termination under section 128AZA (voluntary termination of registration).” 15
- (5) In paragraph 13 (which amends section 131 (appeals) of that Act), after subparagraph (8) insert –
- “(9) At the end insert (or if subsection (6) of section 131 (which is inserted by section 2 of the Driving Instructors (Registration) Act 2016) is in force, for that subsection substitute) – 20
- “(6) In subsections (1)(b) and (4D) the references to termination of a person’s registration do not include termination under section 128AZA (voluntary termination of registration).””

General provisions 25

5 Consequential amendments, repeals and revocations

- (1) The Secretary of State may by regulations made by statutory instrument make such provision as the Secretary of State considers appropriate in consequence of this Act.
- (2) The power conferred by subsection (1) includes power – 30
- (a) to make transitional, transitory or saving provision;
 - (b) to amend, repeal or revoke any provision of primary legislation or secondary legislation which is passed or made before this Act or in the same Session as this Act.
- (3) A statutory instrument containing (whether alone or with other provision) regulations under subsection (1) which amend, repeal or revoke any provision of primary legislation may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament. 35
- (4) Subject to that, a statutory instrument containing regulations under subsection (1) is subject to annulment in pursuance of a resolution of either House of Parliament. 40
- (5) In this section –
- “primary legislation” means –
- (a) an Act of Parliament;

- (b) an Act of the Scottish Parliament;
 - (c) a Measure or Act of the National Assembly for Wales;
 - (d) Northern Ireland legislation;
- “secondary legislation” means an instrument made under primary legislation.

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6 Transitional, transitory or saving provision

The Secretary of State may by regulations made by statutory instrument make such transitional, transitory or saving provision as the Secretary of State considers appropriate in connection with the coming into force of any provision of this Act.

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7 Extent, commencement and short title

- (1) Sections 1 to 4—
 - (a) extend to England and Wales, and Scotland, and
 - (b) come into force on such day as the Secretary of State may by regulations made by statutory instrument appoint.
- (2) The regulations may appoint different days for different purposes.
- (3) Sections 5 and 6 and this section—
 - (a) extend to England and Wales, Scotland and Northern Ireland, and
 - (b) come into force on the day on which this Act is passed.
- (4) This Act may be cited as the Driving Instructors (Registration) Act 2016.

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To make provision about the registration of driving instructors.

*Ordered to be brought in by Sir David Amess,
Rosie Cooper, Martyn Day,
Margaret Ferrier, Mr Roger Godsiff,
Kevin Hollinrake, Steve McCabe,
Wendy Morton, John Redwood,
Andrew Rosindell, Dame Angela Watkinson
and Mr Mark Williams.*

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to be Printed, 27 January 2016.*

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