

DRIVING INSTRUCTORS (REGISTRATION) BILL

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Driving Instructors (Registration) Bill as brought from the House of Commons on 7 March 2016 (HL Bill 103).

- These Explanatory Notes have been provided by the Department for Transport, with the consent of Earl Attlee, the peer in charge of the Bill, in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Bill will mean in practice; provide background information on the development of policy; and provide additional information on how the Bill will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Bill. They are not, and are not intended to be, a comprehensive description of the Bill. So where a provision of the Bill does not seem to require any explanation or comment, the Notes simply say in relation to it that the provision is self-explanatory.

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Overview of the Bill

- 1 The Bill provides for two deregulatory measures to simplify the registration of driving instructors. The first allows a driving instructor to request voluntary removal from the register of driving instructors. The second simplifies the process for rejoining the register where a person's registration has lapsed.

Policy background

- 2 In Great Britain it is unlawful for a person to conduct driving instruction for payment unless they are an "Approved Driving Instructor", commonly known as an "ADI". A person has to apply to be registered on the register of Approved Driving Instructors ("the register") to become an ADI.
- 3 To become registered as an ADI a person currently has to pass three examinations that test driving theory, driving ability and instructional skill. They must also be medically fit to instruct and be a "fit and proper person" to be entered on the register.
- 4 Once a person is on the register as an ADI they are required to take a "standards check" every few years to ensure that they are still instructing to an appropriate standard. A person's registration will last for four years, after which it will expire unless it has been extended. A person can only extend their registration if the Registrar is satisfied that they are still a "fit and proper person" to remain on the register, are still medically fit to instruct and have taken and passed a standards check when required to do so.
- 5 As part of the "Modernising Driver Training" consultation the Driver and Vehicle Standards Agency (the "DVSA") consulted on two proposals designed to simplify the registration of driving instructors - allowing voluntary removal from the register and simplifying the process of rejoining the Register once registration has lapsed. These proposals received 89% and 86% agreement from the consultees. This Bill contains the amendments to the Road Traffic Act 1988 that would be necessary to bring these two policies into effect - they are described in further detail below.

Re-joining the Register after Registration Lapsed

- 6 An ADI's registration will expire and they will be removed from the register after four years if their registration is not renewed.
- 7 Currently where an ADI has been off the register for less than a year, they can reapply, and will be added back onto the register, subject to conduct and medical fitness requirements. However if the ADI's registration had lapsed for more than a year at the time when they reapplied they would have to retake the three ADI qualification exams.
- 8 The Bill aims to simplify the arrangements for people who had been off the register for one to four years and wish to reapply to be put back on the register. Instead of requiring full requalification (as is currently the case) they would instead be required to take a "standards check" and if they passed they would be allowed to return to the register (subject to conduct and health requirements). The standards check these returning instructors would take would be the same as the standards check that practicing ADIs currently take during the period of their registration to ensure their continued competence to instruct.
- 9 A person applying to rejoin the register by this route would have a maximum of three attempts at passing the standards check. If a person failed three times then they would have to repeat the full re-qualification process if they wanted to re-join the Register.

- 10 This shorter requalification option would not be available for those removed from the Register for disciplinary reasons.
- 11 For people who have been off the Register for four or more years the current requirement to retake the three qualification exams would not be changed.

Voluntary Removal from the Register

- 12 An ADI's name is added to the register on qualification, where it will remain until the registration expires (essentially four years after the last period of registration commenced) or is extended. The only way a person can currently be removed is if the registration runs out or if they are removed by the Registrar for conduct, competence or other safety reasons.
- 13 The Bill amends the current arrangements to enable a driving instructor to request voluntary removal from the Register at any point during the registration period.
- 14 To prevent the new voluntary removal ability from being combined with the ability to apply to rejoin the register within 12 months without sitting any test from being abused by anyone seeking to avoid the standards check, the Bill would create a variation on the rule for rejoining the register within 12 months of removal. Where a person came off the Register as a result of voluntary removal they can only rejoin the register within 12 months without taking any tests if they have taken a standards check in the last four years. If it has been more than four years since the last standards check then they will need to take a standards check before they can rejoin the register.

Legal background

- 15 Part V of The Road Traffic Act 1988 and the Motor Cars (Driving Instruction) Regulations 2005 govern the regulation of motor car driving instructors in Great Britain. Northern Ireland has a separate legislative scheme.
- 16 There are a large number of uncommenced amendments to Part V of the Road Traffic Act 1988. These are mostly related to the amendments contained in Schedule 6 to the Road Safety Act 2006 that have not yet been brought into force. These Schedule 6 amendments would allow the ADI regime (which currently applies to cars) to be extended to other vehicle types. There are no current plans to bring this Schedule into force.

Territorial extent and application

- 17 The provisions in clauses 1-4 of this Bill, which contain the substantive changes to the law, extend to Great Britain.
- 18 Clauses 5-7 which contain the ancillary provisions, governing extent, powers to make consequential and transitional provisions etc., extend to the United Kingdom.
- 19 The Bill does not contain any provision which gives rise to the need for a legislative consent motion in the Scottish Parliament, the National Assembly for Wales or the Northern Ireland Assembly.

Commentary on provisions of Bill

Part 1: Amendments to the existing regime

Clause 1: Re-entry in the register following expiry of registration

- 20 This clause creates the ability for a driving instructor whose registration has lapsed for between 12 months and four years to apply to rejoin the register by taking a "standards check" instead of the three part qualifying examination that section 126(3) of the Road Traffic Act 1988 currently requires.
- 21 Subsection (2) repeals section 126(3). Section 126(3) contains the current rules on re-entry to the register - which this clause seeks to replace.
- 22 Subsection (3) adds a new Section 126A to the Road Traffic Act 1988 which:
 - a. maintains the current rule that someone whose registration has lapsed for less than a year does not have to retake any qualification tests or standards check;
 - b. introduces the rule that someone whose registration has lapsed for one - four years does not have to retake any qualification tests but does have to take a standards check instead;
 - c. maintains the requirement of retaking the qualification tests in full for anyone whose registration has lapsed for over four years.

Clause 2: Voluntary removal from the register and subsequent re-entry

- 23 This clause creates the ability for a driving instructor to request that their name be removed from the register before their registration would otherwise expire.
- 24 Subsection (2) adds the new sections 128AZA and 128AZB to the Road Traffic Act 1988.
- 25 The new section 128AZA adds the ability for instructors to request removal from the register and provides for the reinstatement of instructors where they were removed in error.
- 26 The new section 128AZB applies very similar rules to those in the new section 126A to persons who wish to re-enter the register following voluntary removal. The only difference is that where a person requested voluntary removal and is applying to rejoin the register within 12 months of having requested removal from the register they can only re-enter the register without taking any tests if they had either passed their initial qualifying exams or passed a standards check in the last four years. If they had not taken a standards check or passed their qualifying exams in the last four years they would be required to pass a standards check before they could re-enter the register. This seeks to prevent the new ability for voluntary removal and reentry to the register from being abused as a means to try to avoid standard checks.
- 27 Subsections (3) and (4) contain consequential amendments resulting from the changes in subsection (2).

Part 2: Amendments to existing regime as amended by the Road Safety Act 2006

Clause 3: Re-entry in the register following expiry of registration

- 28 This clause and clause 4 amend Schedule 6 to the Road Safety Act 2006 - which consists of un-commenced amendments to Part V of the Road Traffic Act 1988 (the part of the Act that

relates to driving instructors). The amendments in this clause and clause 4 are designed to replicate the changes made in clauses 1 and 2 in a way that would still work if Schedule 6 to the Road Safety Act 2006 was brought into force.

- 29 Subsection (2) amends the replacement section 126 that would be brought into force if Schedule 6 to the Road Safety Act 2006 was commenced. This amendment alters the existing power in the replacement section 126 so that standards checks could be prescribed as a condition of re-entry to the register (instead of repeating the initial qualification tests).
- 30 Subsection (3) removes section 126A which was inserted by clause 1.

Clause 4: Voluntary termination of registration and subsequent re-registration

- 31 Subsection (2) creates a different version of section 128AZA that would replace the sections 128AZA and 128AZB created by clause 2 if Schedule 6 to the Road Safety Act 2006 were brought into force. This version of s128AZA has the same effect as the s128AZA in clause 2 but is phrased differently to reflect the different terminology used in Schedule 6 to the Road Safety Act 2006.
- 32 Subsections (3), (4) and (5) contain consequential amendments resulting from the changes in subsection (2).

Part 3: General Provisions

Clause 5: Consequential amendments, repeals and revocations

- 33 This clause provides the power to make consequential amendments to primary and secondary legislation.

Clause 6: Transitional, transitory or saving provision

- 34 This clause provides the power to make transitional provisions.

Clause 7: Extent, commencement and short title

- 35 This clause provides that clauses 5 -7 will come into force on the day the Bill is passed and provides the power to bring the other clauses into force by commencement regulations.
- 36 The clause restricts the extent of clauses 1-4 of the Bill to Great Britain. Clauses 5-7 extend to the United Kingdom.

Commencement

- 37 The ancillary clauses 5, 6 and 7 will come into force on the day on which the Bill is passed.
- 38 The substantive clauses 1-4 will come into force on such a days or days as the Secretary of State may by regulations appoint. It is anticipated that these provisions would be brought into force within 12 months of Royal Assent.

Financial implications of the Bill

- 39 At present, it is not envisaged that there would be any new costs. Whilst the activity of removing a name from the Register during the period of registration would be a new one, the costs are expected to be minimal and should be absorbed within current resources. The administrative action of arranging for a standards check for anyone who wishes to re-join the Register would replace the current procedure of arranging three qualifying examinations.

Parliamentary approval for financial costs or for charges imposed

40 The Bill does not require a money resolution or a ways and means resolution.

Related documents

41 The following documents are relevant to the Bill and can be read at the stated locations:

- The Road Traffic Act 1988 -
<http://www.legislation.gov.uk/ukpga/1988/52/contents>
- The Motor Cars (Driving Instruction) Regulations 2005 -
<http://www.legislation.gov.uk/uksi/2005/1902/contents/made>
- Modernising driver training - interim consultation response -
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/329858/modernising-driver-training-interim-response-to-consultation.pdf

Annex A - Territorial extent and application

Provision	England	Wales		Scotland		Northern Ireland	
	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Legislative Consent Motion required?	Extends to Scotland?	Legislative Consent Motion required?	Extends to Northern Ireland?	Legislative Consent Motion required?
Clauses 1-4	Yes	Yes	No	Yes	No	No	No
Clauses 5-7	Yes	Yes	No	Yes	No	Yes	No

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