



Department for

Infrastructure

An Roinn

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From the office of the Minister for Infrastructure
Nichola Mallon MLA

Ms Michelle McIlveen
Chairperson
Committee for Infrastructure
Room 427
Parliament Buildings
Ballymiscaw
Stormont
Belfast
BT4 3XX

Room 708
Clarence Court
10-18 Adelaide Street
BELFAST
BT2 8GB
Telephone: (028) 9054 0105
Email: private.office@infrastructure-ni.gov.uk

Your reference:
Our reference: SUB-1447-2020

17 June 2020

DRIVER LICENSING – STATUTORY PROVISION FOR 1 YEAR LICENCE RENEWALS FOR GROUP 2 DRIVERS

I am writing to advise you that, subject to Executive approval, I intend to table a legislative consent motion on this issue in the Assembly as soon as possible. I have provided further information below.

As you know, the Covid-19 crisis has meant that drivers who require a medical assessment before a driving licence can be granted are having difficulty in gaining access to a medical professional. The medical report is an integral part of the qualifying application criteria for 'Group 2 driving licences' – which are issued to lorry and bus drivers.

For drivers up to age 65, Group 2 driving licences are issued for a 5 year period (unless the licence is medically restricted, in which case the validity period is reduced). This is in accordance with the provisions of the EU Driving Licence Directive (Directive 2006/126/EC). Drivers are required to submit a medical report with their licence application if:

- (i) it is a first time application;
- (ii) they are aged 45 and over; or;
- (iii) they are aged under 45 and have a medical condition that must be declared.

In Great Britain, in response to the current crisis, the Department for Transport took the decision to issue 1 year licence renewals to some drivers, without prior medical assessment. These 1 year licences are only issued to drivers aged 45 and over and are not issued to first time applicants. Moreover, applicants in that category who have health issues will still need to declare these, and those with health issues that prevent them from driving safely will not have their licence renewed.

Implementation of this approach requires the amendment of primary legislation. DfT decided to do this at a later date, and apply the provisions retrospectively.

At the time, I took legal advice on whether similar legislative change, in the form of an Act of the Assembly, was feasible for Northern Ireland. The advice that I received made reference to Section 6 of the Northern Ireland Act 1998. Section 6 provides that an Act is outside the Assembly's legislative competence if it is incompatible with EU law or Convention rights. In other words, the terms of the devolution settlement require that our devolved administration operate within this framework. In this instance, for Group 2 drivers, the relevant EU law is provided by the EU Driving Licence Directive (Directive 2006/126). The Directive stipulates that Group 2 driving licences should be valid for 5 years.

On principle I believe all devolved matters should be legislated for in the Assembly and I will always endeavour to make legal changes through the Assembly, however, legal advice has recommended that if 1 year licensing was to be introduced, the safest approach would be to do so via Westminster legislation, since Westminster is not bound by a similar EU law compatibility restriction. An Assembly Act which provides for 1 year licence renewals could therefore be very vulnerable to legal challenge, on the grounds that such action is unfortunately outside the Assembly's legislative competence

However while I was reviewing this advice, I became aware that the EU was bringing forward an Emergency Transport Regulation. This includes a provision which states that all driving licences which expire or are due to expire between 1 February 2020 and 31 August 2020 will be deemed to be extended for a period of 7 months. This new EU Regulation (Regulation (EU) 2020/698) became law across the UK with effect from 4 June.

In my view, this represented a more effective alternative to 1 year licences for Group 2 drivers. It has meant that all existing driving licences in Northern Ireland - including Group 2 driving licences - can be treated as having an extended validity period. In effect, they remain valid for 7 months beyond the date that is shown on the face of the licence.

However I was reluctant to rule out completely the option of issuing 1 year Group 2 driving licences in future months - in the event that normal licensing arrangements cannot be restored from September 2020. For this reason, and given the potential legal uncertainty of Assembly legislation, I asked officials to keep me informed of GB plans to bring forward statutory provision for 1 year licences for certain Group 2 drivers.

DfT had originally proposed to make the required changes to primary legislation later this year. However those plans have changed. The licensing provisions are now to be included in a Business and Planning Bill which is scheduled to be introduced to Westminster on 22 June.

I believe that it is sensible to seek to include provisions covering Northern Ireland in the Westminster Bill to ensure that the option of 1 year licensing is available to my Department in future, should this prove necessary. DfT have agreed to the inclusion of NI provisions in this Bill, subject of course to the consent of the NI Assembly. This

would enable the Department to grant 1 year licence renewals to drivers aged 45 to 65, without those drivers submitting a medical report with their application. These licences would only be issued to drivers who do not declare any medical conditions which prevent them from driving safely.

The Westminster Bill is to be fast-tracked through Parliament and is expected to become law in July 2020. In line with normal protocol, and subject to Executive approval, I will lay a legislative consent memorandum at the Assembly, once the Westminster Bill has been introduced to Parliament. I will then seek to schedule the consent motion debate as soon as possible.

I would be grateful for Committee support for this Legislative Consent Motion.

I am of course very happy to provide any further information that may be required.

Yours sincerely,

NICHOLA MALLON MLA
Minister for Infrastructure