

Any person driving a on a public road in the UK or Europe must hold a current and valid driving licence showing the appropriate driving entitlement for the vehicle being driven. The licence itself may be full, or provisional. The licence confirms that a driver is physically capable of operating a vehicle and has passed a test which demonstrates an adequate level of competence to drive.

The obligation to be correctly licensed rests with the individual driver and it is their responsibility to check validity and entitlement if in doubt.

Section 87(1) Road Traffic Act 1988 (as amended by the Road Traffic Act 1991) [Article 3(1) Road Traffic (Northern Ireland) Order 1981]

“It is an offence for a person to drive on a road a motor vehicle of any class otherwise than in accordance with a licence authorising him to drive a motor vehicle of that class.”

However the legislative obligations do not rest solely with the driver. The employer of any person required to drive in the course of their employment is also under a duty to ensure that the employee is properly licensed to drive the types of vehicle expected.

Section 87(2) Road Traffic Act 1988 (as amended by the Road Traffic Act 1991) [Article 3(2) Road Traffic (Northern Ireland) Order 1981]

“It is an offence for a person to cause or permit another person to drive on a road a motor vehicle of any class otherwise than in accordance with a licence authorising that other person to drive a motor vehicle of that class.”

Failure to check such entitlement through negligence or lack of knowledge will be no defence in any legal action.

This guide relates primarily to category A, B and B+E vehicles. They are vehicles under 3,500 kilos. Driving licence categories will differ in Northern Ireland. The various vehicle categories and age requirements are considered in greater detail below.

Penalties for Unlicensed Driving

GB Drivers

The penalties that can be imposed on drivers for offences under section 87 of the Road Traffic Act 1988 (driving without a licence) are:-

- Summary trial a maximum fine of £1,000 (Level 3 fine)
- 3-6 penalty points
- Endorsement
- Disqualification (discretionary) to 3 months if unlicensed

In the case of drivers of large goods or passenger carrying vehicles, the starting point is the same for fines, but courts should consider an uplift of 25%.

GB Employers (causing or procuring)

Maximum fine £1,000

Northern Ireland Drivers

Under the Road Traffic (Northern Ireland) Order 1981 Article 3 making it an offence to drive without a licence.

- Summary trial a maximum fine of £1,000
- 3-6 penalty points
- Endorsement if unlicensed or provisional licence wouldn't have covered vehicle
- Disqualification (discretionary) to 3 months if unlicensed

Northern Ireland Employers

Maximum fine of £1,000

Other Applicable Legislation

The current legislation can be found in the following Acts of Parliament and EU Directive.

- The Road Traffic Act 1988 – which are the primary legislative provisions
- The Road Traffic (New Drivers) Act 1995 – introduced the probationary period and new surrender of licence provisions
- Road Traffic Offenders Act 1988
- The Road Traffic (New Drivers) Act 1995
- The Motor Vehicles (Driving Licences) Regulations 1999
- The Motor Vehicles (Driving Licences)(Amendment) (No.3) Regulations 2015
- Third European Directive on Driving Licences 2006/126/EC responsible for harmonisation of the appearance of licences across the EU to reduce fraud and setting common periods of validity of 5 years (10 years for photographs)

Vocational Drivers

The Motor Vehicles (Driving Licences) (Large Goods and Passenger Carrying Vehicles) Regulations 1990 require that the vocational driver holds a full category B licence for GB or Northern Ireland in addition to their vocational driving licence entitlement. This covers entitlement to drive Large Goods Vehicles over 7.5 tonnes and passenger carrying vehicles for hire and reward operations.

Older Drivers

It is important to bear in mind that there is no upper age limit for driving. There are minimum age limits, but no maximum age limit. Whether or not an older driver can drive is a matter of health and capability rather than age. However, the law does recognise that increasing age can affect the skills required to drive safely and for this reason there are specific licensing rules for the over 70s.

Unless there are grounds for issuing a Short Term Licence (due to medical conditions) most ordinary driving licence entitlements will expire when the driver reaches the age of 70, or, if the driver passes their test near or after their 70th birthday, after 3 years (whichever is the longer) (Road Traffic Act 1988 Section 90(1)(a)). In Northern Ireland the Road Traffic (Northern Ireland) Order 1981 Article 15 provides that the driving licence expires after 10 years, except where the driver is aged over 60 in which case it will expire when they reach 70. The rules for those driving lorries and buses or coaches professionally (vocational drivers) are different in both GB and NI in that the age limits are reduced and there is a medical requirement.

Category D1 and C1 entitlement renewals by the over 70s will require a medical certificate.

Older drivers with a notifiable medical condition that is age related or worsens over time may find that their driving entitlement expiration date is changed as a consequence (see Short Term Licence (Medical)).

In other cases, a driver who is approaching 70 can apply to renew their GB driving licence for free 90 days before their 70th birthday. In Northern Ireland a fee is payable for this service. Those who have already attained 70 can apply immediately. To make life easy, qualifying drivers can apply online in GB. The driver can also apply by post. In Northern Ireland a paper application form must be completed and returned to the DVA NI.

The DVLA will send a reminder of pending expiration 90 days before the driving licence is due to expire. In Northern Ireland the DVANI will send out a courtesy reminder about two months before expiration, but are not obliged to do so.

Requirements:

- The applicant must hold a GB/NI licence that is due to expire.
- They must be resident in GB (or Northern Ireland as the case may be).
- They must not be prevented from driving for any reason such as disability or a notifiable medical condition.
- Their eyesight whether corrected with spectacles or not must meet the minimum requirement.

Provided the driver meets the requirements above and provides any necessary documentation in the form of proof of residence, any photographs etc. their driving licence will renew for another 3 years. At the end of this period the driver will have to renew for further 3 year periods.

A driver can continue to drive under the conditions of their previous licence whilst they are awaiting their renewed entitlement, provided their application is less than a year old, they are medically fit to do so and they are not currently disqualified or prohibited from driving.

Driving Otherwise than in Accordance with a Licence Offences (General)

It is an offence to drive, or to cause or permit another person to drive a vehicle on the road without a valid driving licence. Notice it is not only the driver who can commit the offence. Those passengers who incite, cause or knowingly permit offences under the Road Traffic Acts can also be guilty of a criminal offence. This offence of driving otherwise than in accordance with a licence would cover driving a vehicle in the following circumstances:-

- where the driver doesn't actually hold a licence at all; or
- where they have been disqualified during the period; or
- where they hold a provisional driving licence but are not displaying 'L' (or 'D' plates in Wales) or are driving unaccompanied and are not in possession of a current valid foreign licence for that class of vehicle that entitles them to do so; or
- are driving in the UK on an invalid foreign licence for that vehicle or generally.

As already noted above, it is also an offence to knowingly let someone else commit this offence. Typical examples of this are:

- supervising a learner driver without complying with the rules for provisional licence holders; and
- allowing someone to use a vehicle (or your vehicle) when it is known that they do not hold a valid driving licence. This might be the offence that an employer could fall foul of if they allow an employee that they know is not properly licensed to use a company vehicle or even their own vehicle on company business!

All the authorities need to show is that the vehicle in question was being driven on a road. The obligation (burden of proof) is then on the driver to show that this was in accordance with a valid licence at the time or that the vehicle was not being driven or was not on a public road.

Driving without proper category entitlement may also invalidate insurance, which is a separate offence in its own right. This may be used as an alternative or additional charge.

The penalty for unlicensed driving is a fine of up to £1,000 and 3-6 penalty points on the driver's licence. The driver may also be disqualified from driving at the discretion of the court for a period. The sentencing rules for driving without insurance have been updated recently to increase the level of fine that can be imposed by the court (see New Sentencing Guidelines for Driving Without Insurance).

Examples of specific driving offences are considered in more detail later in this document (see page 88).

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