

# Consultation

## Implementing amendments to the Recognition of Professional Qualifications Directive in relation to Driving Instructors and Motorcycle Instructors

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An Agency within the Department for

**Infrastructure**

Gníomhaireacht laistigh den Roinn

**Bonneagair**

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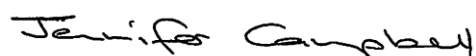
## **MUTUAL RECOGNITION OF PROFESSIONAL QUALIFICATIONS DIRECTIVE**

The Driver and Vehicle Agency (DVA) would like to get your views on some changes we are proposing to make to legislation to allow driving instructors and motorcycle instructors from other EU Member States, the European Economic Area and Switzerland (hereafter referred to as “Member States”) to deliver their services here on a permanent, temporary or occasional basis.

The forthcoming negotiations will determine the future status of EU rules for the North of Ireland. Until exit negotiations are concluded, we remain a full member of the European Union and all the rights and obligations of EU membership remain in force. During this period the Department will continue to negotiate, implement and apply EU legislation.

We have set out some of the background and our proposals below. If you have any comments we would like to hear from you. Please send your comments to: [jackie.dunlop@infrastructure-ni.gov.uk](mailto:jackie.dunlop@infrastructure-ni.gov.uk) by 24 October 2016, providing your name and your interest in the subject, for example, whether you are an Approved Driving Instructor or an Approved Motorcycle Instructor, a road safety expert, or a representative of either industry.

Thank you



**Jennifer Campbell**  
Registrar and Head of Driver & Vehicle Standards

## **Background**

In 2005 the EU adopted a Directive (Directive 2005/36)<sup>1</sup> (“the principal Directive”) about the Mutual Recognition of Professional Qualifications. This Directive was introduced into UK-wide legislation by the Department for Business, Innovation and Skills (BIS) in *The European Communities (Recognition of Professional Qualifications) Regulations 2007* (“the 2007 Regulations”).

The overall objective of the Directive is to allow free movement between Member States of individuals who hold professional qualifications. The introduction of the principal Directive made it easier for skilled professionals to move around Europe and to market their skills in other Member States on a temporary or established basis, giving Member States greater access to a skilled labour market and offering professionals more freedom to pursue their chosen careers across the EU. The Directive applies to a wide range of professions including Approved Driving Instructors (ADI) and Approved Motorcycle Instructors (AMI).

In 2013 the principal Directive was revised by Directive 2013/55<sup>2</sup> (“the amending Directive”). The recent revision of the principal Directive has introduced important changes that should speed up the process of mutual recognition, and sets out more clearly and adds further information about the rights of individuals to practise their services in another Member State on a temporary or occasional basis.

*The European Union (Recognition of Professional Qualifications) Regulations 2015* (“the 2015 Regulations”) revoke and replace the 2007 Regulations to implement in part the 2013 Directive. The 2015 Regulations are UK-wide and came into operation in January 2016.

<http://www.legislation.gov.uk/ukxi/2015/2059/contents/made>

The 2015 Regulations require all Regulators, including the DVA, to establish rules for the recognition of professional qualifications

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<sup>1</sup> Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications.

<sup>2</sup> Directive 2013/55/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 20 November 2013 amending Directive 2005/36/EC on the recognition of professional qualifications and Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System (‘the IMI Regulation’)

from other Member States, in order to allow professionals from Member

States to gain access to the profession in which they are qualified and to practise that profession here on a permanent, temporary or occasional basis.

We have therefore reviewed the relevant NI legislation regulating driving and motorcycle instruction to ensure it is fully compliant with EU Law, and have concluded that legislative changes are required to make provision for driving and motorcycle instructors from other Member States to deliver their services here on a permanent, temporary, or occasional basis. We have outlined our proposals below, and we wish to seek your views on these proposed changes.

BIS has undertaken two consultations focusing on the changes that impact on all professions covered by the Directive. The results of these consultations can be found on gov.uk. The latest response to consultation can be found by using the following link:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/420691/bis-15-252-mutual-recognition-of-professional-qualifications-revised-directive-government-response.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/420691/bis-15-252-mutual-recognition-of-professional-qualifications-revised-directive-government-response.pdf)

### **Becoming an ADI or AMI**

Under the Road Traffic (NI) Order 2007 it is unlawful for a person to conduct driving instruction or motorcycle instruction for payment unless the person is an Approved Driving Instructor (ADI) or Approved Motorcycle Instructor (AMI). To become registered as an ADI or AMI a person must meet the requirements in Article 52 of the Road Traffic (NI) Order 2007, including passing three examinations which test theory, driving ability and instructional skill, holding the relevant driving licence for at least four of the last six years, and being a “fit and proper person” to have their name entered in the Register. They must also pay the necessary fees.

Once a person is registered as an ADI or AMI they are required to take a “check test” every few years to ensure that they are still instructing to an appropriate standard. Registration will last for four years after which it will expire unless it has been extended. Before registration can be extended the Registrar must be satisfied that the person is still a “fit and proper person”, has taken and

passed a check test when required to do so, and meets the other conditions of registration.

### **What we propose to do**

We propose to split the Register of Approved Driving Instructors and Approved Motorcycle Instructors into two parts. This means that the Register will have a Part 1 which will include all permanently registered instructors, and Part 2 will include all EU instructors providing instruction here on a temporary and occasional basis.

### **Instructors Moving Permanently to Practise in NI**

An instructor from another Member State who is moving here permanently may apply to the DVA to have their professional driving instructor or motorcycle instructor qualification recognised. The applicant must provide a copy of their passport, a copy of their driving licence, a copy of their EU driving instructor certificate to practise, a letter detailing their driving or motorcycle instruction career including dates, qualifications gained and evidence of good character (equivalent to an Access NI check).

The DVA will consider all of the evidence provided. If the qualification or experience which the applicant has obtained in another Member State is broadly equivalent to the qualifications obtained by ADIs or AMIs, the applicant will be able to apply for registration under the same conditions as an ADI or AMI without completing any additional instructor courses or examinations here.

If significant differences are identified between the qualification held by the applicant and the DVA qualification, the applicant can be required to undergo a “compensation measure”. This means that the applicant is offered the choice of either undergoing an adaptation period or taking an aptitude test. An aptitude test is a test designed to show the instructor’s ability to adapt their skills to the different circumstances and knowledge base required here. An adaptation period is a defined period of practice under the guidance of a qualified instructor followed by an assessment.

A driving or motorcycle instructor from another Member State wishing to establish themselves permanently here will need to apply to have their name entered in Part 1 of the Register. They would apply in the same way as any other ADI or AMI and pay the relevant fee. However they would be exempt from the requirement to pass the three part qualifying examinations of theory, practical driving or riding, and instructional ability.

Once registered with DVA, instructors from other Member States who have become permanently established here will be issued with an ADI or AMI badge and certificate and will be able to use the title “Approved Driving Instructor” or “Approved Motorcycle Instructor”. They will be subject to the same conditions as DVA ADIs or AMIs, including being subject to “fit and proper” criteria and check tests.

### **Instructors Providing Services on a Temporary or Occasional Basis**

Instructors from other Member States seeking to provide services on a temporary or occasional basis here will be required to inform DVA in advance by making a declaration. The declaration must include details of their insurance cover and must be accompanied by the following documents:

- a) Proof of their nationality;
- b) Evidence of their professional qualification including details of their driving licence;
- c) An attestation certifying they are legally established as a driving or motorcycle instructor in another Member State; and
- d) An attestation certifying that they have not been barred or suspended from practising the profession in another Member State and that they do not have any criminal convictions.

We propose that once an instructor has submitted their declaration and documents for consideration, if we are content, they will be treated as if they are registered and have immediate access to deliver their services. They will be included in Part 2 of the Register and will be issued with a “temporary instructor” badge.

The “temporary instructor” badge will have the same features for both NI and GB, as the Directive requires professionals wishing to provide temporary services to have immediate access to their

profession throughout the entire Member State. The badge will be a different colour to the current ADI or AMI badge, and will include the words “EU Temporary Instructor” as well as any professional title that is used for driving or motorcycle instructors in the Member State where they qualified. The badge will also contain a number, date of issue and expiry date twelve months from the date of issue as the applicant must renew the declaration annually and will be issued with a new badge each year.

Temporary Instructors will not be allowed to use the terms ADI, Approved Driving Instructor, AMI or Approved Motorcycle Instructor as only instructors entered in Part 1 of the Register will be permitted to use these titles. Any temporary instructors will be known by the professional title used in their home state.

The declaration must be renewed every 12 months. The DVA will assess whether or not the services are being provided on a temporary basis having regard to the duration, frequency, regularity and continuity of the service provision. If the instructor moves here permanently they will be required to apply for registration in Part 1 of the Register.

**We welcome any comments that you have on the above proposals - please send them to [Jackie.dunlop@infrastructure-ni.gov.uk](mailto:Jackie.dunlop@infrastructure-ni.gov.uk) by 24 October 2016.**