

2013 No. 372 (W. 45)

ROAD TRAFFIC, WALES

**The Rehabilitation Courses
(Relevant Drink Offences) (Wales)
Regulations 2013**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision about drink-driver rehabilitation courses and apply to Wales. These are courses which may be the subject of an order of a court under which a period of disqualification for drink-drive offences may be reduced if the offender successfully completes an approved course. The relevant statutory provisions are sections 34A to 34C of the Road Traffic Offenders Act 1988 as substituted by the Road Safety Act 2006, section 35.

Regulations relating to applications for approval, approval and appeals against refusal of approval or conditional approval are commenced on 15 March 2013 in advance of the remainder of the Regulations so that approved courses are available to be the subject of court orders made on or after 24 June 2013.

Regulation 3 provides for application to the Welsh Ministers for approval of a rehabilitation course.

Regulation 4 makes provision about the Welsh Ministers' decision on such an application.

Regulation 5 provides for the payment of fees. Fees are payable by successful applicants following the grant of approval. Course completion fees are payable quarterly in arrears and calculated according to the number of persons ("offenders") successfully completing the course during the previous quarter. The fee is set at £7 per offender.

Regulation 6 provides for withdrawal of approval of courses in the event of a course provider failing to observe a condition of approval, disregarding guidance or ceasing to be an appropriate person to provide the course or administer its provision efficiently or effectively. Save where the Welsh Ministers believe

the course provider, or a person acting with the provider's authority, has been guilty of serious misconduct meriting immediate withdrawal, a warning notice must first be given allowing the provider an opportunity to reply to the proposal to withdraw approval. Every withdrawal notice given by the Welsh Ministers must state the reason for the withdrawal and, if appropriate, the nature of any serious misconduct.

Regulation 7 provides for appeals against the refusal of an application for approval, the imposition of a condition on the grant of approval or the withdrawal of an approval. Appeals must be made within a specified period to the First-tier Tribunal, which has the power to make such orders as it thinks fit.

Regulation 8 prescribes a minimum course fee of £150 and a maximum course fee of £250 and specifies when and how course fees are to be paid.

Regulation 9 allows the Welsh Ministers to require information from course providers about their administration and conduct of courses and also their compliance with sections 34A to 34C of the Road Traffic Offenders Act 1988 and these Regulations.

Regulations 10 and 11 prescribe the form of a certificate of completion of a course and of a notice of non-completion and also the circumstances in which such a notice is to be treated as having been given.

Regulation 12 empowers the Welsh Ministers to publish (free of charge) information about courses, including their cost.

A regulatory impact assessment has been prepared in relation to these Regulations. Copies may be obtained from the Welsh Government, Cathays Park, Cardiff, CF10 3NQ.

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**The Rehabilitation Courses
(Relevant Drink Offences) (Wales)
Regulations 2013**

Made 19 February 2013

Laid before the National Assembly for Wales
22 February 2013

Coming into force 15 March 2013

*Regulations 1 to 4, 7(1)
and (4)(a) and
regulation 12 in so
far as it relates to
regulation 3.*

*All other regulations
and regulation 12 for
all remaining
purposes.*

24 June 2013

The Welsh Ministers in exercise of the powers conferred upon the National Assembly for Wales by sections 34B(3) and (10), 34BA(5) and 34C(4) of the Road Traffic Offenders Act 1988(1) and now vested in them(2) make the following Regulations.

Introductory

Title, commencement and application

1.—(1) The title of these Regulations is the Rehabilitation Courses (Relevant Drink Offences) (Wales) Regulations 2013.

(1) 1988 c.53. Sections 34B, 34BA and 34C were substituted by the Road Safety Act 2006 (c.49), section 35. By virtue of section 34C(3) the National Assembly for Wales was designated as the ‘appropriate national authority’ in relation to regulations under sections 34B, 34BA and 34C as respects Wales.

(2) These powers are exercisable by the Welsh Ministers by virtue of section 162 of, and paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c.32).

(2) Regulations 1 to 4, 7(1) and (4)(a), and regulation 12 in so far as it relates to regulation 3, come into force on the 15 March 2013.

(3) All other regulations and regulation 12 for all remaining purposes come into force on the 24 June 2013.

(4) These Regulations apply in relation to Wales.

Interpretation

2. In these Regulations—

“the Act” (“*y Ddeddf*”) means the Road Traffic Offenders Act 1988;

“course” (“*y cwrs*”) means a course for the purposes of section 34A of the Act in relation to the conviction of a person for a relevant drink offence.

Approval of courses

Applications for approval

3.—(1) An application for approval of a course must be in writing and be accompanied by such information as the Welsh Ministers may reasonably require.

(2) The Welsh Ministers may refuse to consider an application if the applicant fails to comply with the requirements of paragraph (1).

Welsh Ministers

4.—(1) The Welsh Ministers must give a decision in writing on each application for approval.

(2) Where the Welsh Ministers decide to refuse to grant approval of a course or to grant approval subject to a condition, the decision must be accompanied by the reasons for the refusal or the imposition of the condition.

Fees

5.—(1) If the Welsh Ministers grant approval of a course a fee (a “course completion fee”) calculated in accordance with paragraph (2) is payable by the course provider to the Welsh Ministers in accordance with paragraph (3) and if not paid is immediately recoverable as a civil debt.

(2) The course completion fee is an amount equal to £7 per relevant offender.

(3) The course completion fee is payable on each relevant day whilst a course is approved and, where a course ceases to be approved, is payable on or before the fourteenth day after approval ceases.

(4) For the purposes of this regulation—

- (a) “relevant day” (“*diwrnod perthnasol*”) means the day which falls upon each of the dates of 14 January, 14 April, 14 July and 14 October in any particular year;
- (b) “relevant offender” (“*troseddwr perthnasol*”) means, in relation to an approved course, a person who has completed that course during the relevant period; and
- (c) “relevant period” (“*cyfnod perthnasol*”) means the period of three months ending on 31 March, 30 June, 30 September or 31 December which falls immediately before the relevant day.

Withdrawal of approval

6.—(1) The Welsh Ministers may withdraw approval of a course if satisfied that the course provider has—

- (a) failed to observe a condition imposed on approval of the course;
- (b) disregarded guidance given under section 34C(1) of the Act; or
- (c) ceased to be an appropriate person to provide the course or has ceased to administer the provision of the course efficiently or effectively.

(2) If the Welsh Ministers propose to withdraw approval of a course written notice of the proposal must be given to the course provider stating—

- (a) the reasons for the proposal; and
- (b) the course provider’s right to make representations concerning it.

(3) Where the Welsh Ministers give notice to the course provider under paragraph (2)—

- (a) that person may, not later than the period of 28 days beginning with the day on which notice under paragraph (2) is given, make representations in writing to the Welsh Ministers concerning the proposal;
- (b) the Welsh Ministers must not decide whether or not to withdraw approval until after the expiration of the period referred to in sub-paragraph (a); and
- (c) if any such representations are made within the period referred to in sub-paragraph (a) the Welsh Ministers must take those representations into consideration before deciding whether or not to withdraw the approval.

(4) The Welsh Ministers must, on making a decision to withdraw the approval of a course, give notice in writing to the course provider and the notice must state—

- (a) the date, not being less than 14 days after the date on which the notice is given, on which the withdrawal is, subject to regulation 7(3), to take effect;
- (b) the reasons for the decision to withdraw; and
- (c) the course provider's right to appeal to the First-tier Tribunal under regulation 7(2)(a).

(5) Paragraphs (2) to (4) do not apply if the Welsh Ministers—

- (a) are satisfied that, by reason of serious misconduct on the part of the course provider or a person acting on behalf or under the direction of the course provider, the approval must be withdrawn without delay; and
- (b) serve notice in writing on the course provider to that effect which states—
 - (i) the nature of the misconduct; and
 - (ii) the course provider's right to—
 - (aa) appeal to the First-tier Tribunal under regulation 7(2)(b); and
 - (bb) apply to that Tribunal for the reinstatement of approval.

(6) A notice under paragraph (2), (4) or (5)(b) may be given by delivering it to a course provider, leaving it at the last known address of a course provider or sending it to the course provider by post.

Appeals

7.—(1) Where a person has made an application for approval of a course and the application—

- (a) is refused, or
- (b) is approved subject to conditions,

that person may appeal to the First-tier Tribunal against the Welsh Ministers' decision.

(2) The course provider may appeal to the First-tier Tribunal against the Welsh Ministers' decision where a notice withdrawing approval of a course has been served under—

- (a) regulation 6(4); or
- (b) regulation 6(5)(b).

(3) Where an appeal is made under paragraph (2)(a) within 14 days of the date on which notice is given under regulation 6(4), the notice of withdrawal of approval is suspended pending the decision of the First Tier Tribunal in the matter.

(4) On the appeal the First-tier Tribunal may make such order as it thinks fit—

- (a) if the appeal is made under paragraph (1), granting (whether or not subject to conditions) or refusing an application, or

- (b) if the appeal is made under paragraph (2), withdrawing, reinstating or continuing (whether or not subject to conditions) an approval.

Conduct of courses

Fees for courses

8.—(1) The minimum fee which a course provider may require a person to pay for attendance on a course is £150. The maximum fee which a course provider may require a person to pay for attendance on a course is £250.

(2) A course provider may charge a fee for attendance in advance of attendance or in instalments.

(3) The attendance fee must be paid in full before the person attending a course has completed it.

Monitoring of courses and course providers

9.—(1) A course provider must, on a request from the Welsh Ministers, provide to the Welsh Ministers—

- (a) such information concerning the course provider's administrative arrangements and the conduct of courses as the Welsh Ministers may reasonably require and in such manner as the Welsh Ministers may reasonably require; and
- (b) records or other documents (in whatever form they are held) which are kept for the purposes of compliance with sections 34A to 34C of the Act and these Regulations.

(2) Information or documents (as the case may be) requested under paragraph (1) must be provided by the course provider within such time limit as the Welsh Ministers may reasonably stipulate or, where no time limit is stipulated, as soon as reasonably possible.

Course completion

10. The certificate referred to in section 34B(1) of the Act is one which is in the form set out in Schedule 1.

11. A notice under section 34B(5) of the Act—

- (a) is one which is in the form set out in Schedule 2; and
- (b) is to be treated as given to a person if—
 - (i) addressed to that person at that person's last known address,
 - (ii) sent by post to that address, and
 - (iii) such posting is certified by the carrier,

notwithstanding that it was returned as undelivered or was for any other reason not received by that person.

Publication of information

Information about courses and course providers

12. The Welsh Ministers may publish information about course providers, the content or cost of courses or the methods by which courses are conducted which was obtained by the Welsh Ministers as the appropriate national authority whether under regulation 3 or 9 or otherwise.

Carl Sargeant

Minister for Local Government and Communities, one of the Welsh Ministers

19 February 2013

SCHEDULE 1 Regulation 10

Form of Certificate of Completion of Course

Serial Number



Llywodraeth Cymru
Welsh Government

Certificate of Completion

This certificate is issued under section 34B(1) of the Road Traffic Offenders
Act 1988

Details of Participant in Scheme

Name

Date of Birth

Address

Sex (X)

M

☐

F

☐

Details of Supervising Court

Name of Court

Address

Case number

Details of Approved Course

Date on which sentence was passed

Date by which course must be completed

Name of course organiser

Contact Telephone Number

Certification

The person named above has successfully completed the approved course

Signed by, or on behalf of, course organiser

Print name

Date

SCHEDULE 2 Regulation 11(a)
Form of Notice of Non-completion of Course



Llywodraeth Cymru
Welsh Government

Serial Number

Road Traffic Offenders Act 1988 – Courses for Drink Drive Offenders

Notice of Non- Completion

This notice is issued under section 34B(5) of the Road Traffic Offenders Act 1988

Details of Participant in Scheme	
Name	
Date of Birth	
Sex (X)	
M ☐	F ☐
Address	

Details of Supervising Court

Name of Court

Address

Case number

Details of Approved Course

Date on which sentence was passed

Date by which course must be completed

Name of course organiser

Contact Telephone Number

Reasons for Decision

A course provider must give a certificate of completion not later than 14 days after the latest date for course completion (specified overleaf) unless the offender:

(X)

fails to make due payment of fees for the course

☐

fails to attend the course in accordance with the course provider's reasonable instructions

☐

fails to comply with any other reasonable requirement of the course provider

☐

Detailed statement of reasons:

Certification

Signed by, or on behalf of, course organiser

Print name

Date