

Explanatory Memorandum To
The Train Driving Licences and Certificates
(Amendment) Regulations (Northern Ireland) 2016

S.R. No. 73

1. Introduction

- 1.1 This Explanatory Memorandum has been prepared by the Department for Regional Development to accompany The Train Driving Licences and Certificates (Amendment) Regulations (Northern Ireland) 2016 which is laid before the Northern Ireland Assembly.
- 1.2 The Statutory Rule is made under powers conferred by section in exercise of the powers conferred by section 2(2) of the European Communities Act 1972 in relation to railways and railway transport and is subject to negative resolution procedure before the Assembly.

2. Purpose

- 2.1 The purpose of these Regulations is to amend an earlier set of Regulations, the Train Driving Licences and Certificates Regulations (Northern Ireland) 2010 (the 2010 Regulations) which implemented the requirements of European Commission Directive 2007/59/EC on the certification of train drivers in Northern Ireland.

3. Background

- 3.1 Section 43(2) and (3) of The Transport Act (Northern Ireland) 2011 permits the Department to make Regulations which direct that any place used for the provision of services under a service agreement shall be made available for the provision of specified services by another person.
- 3.2 The 2010 Regulations implemented the requirements of European Commission Directive 2007/59/EC on the certification of train drivers in Northern Ireland. Under the 2010 Regulations a train driver licence issued by the Office of Rail and Road (ORR) in

Great Britain would not be valid in Northern Ireland. The amendment being is to include as valid those licences issued by the Office of Rail and Road.

- 3.3 European Commission Directive 2007/59/EC included a stipulation providing that a train driver's vision for both eyes is not required to be effective in the case of adequate adaptation and sufficient compensation experience and only if binocular vision was lost after starting the job. However on 24 June 2014 a further European Commission Directive 2014/82/EU was issued which stated that the stipulation outlined in Directive 2007/59/EC contradicts the other vision requirements of that Directive and could put at risk the high level of safety in rail operations. EC Directive 2014/82/EU therefore made a change to the stipulated vision requirements stating that the vision for both eyes must be effective. Transitional arrangements were also put in place train drivers who obtained a licence before the Regulations come into force. The amendment being made by the proposed regulations requires vision for both eyes to be effective.
- 3.4 Schedule 3 of 2010 regulations stipulates the general professional knowledge and requirements regarding a train driving licence. EC Directive 2014/82/EU indicated that due to a lack of clarity in Directive 2207/59/EC member states had applied this requirement differently which ultimately jeopardised the introduction of a harmonised licence system for train drivers through the European Union. The proposed amending regulations aim to provide further clarity on the nature and extent of the general professional knowledge and requirements.
- 3.5 Paragraph 8 of Schedule 4 of the 2010 Regulations provides details of the language skills required by drivers. Again, EC Directive 2014/82/EU indicated that due to a lack of clarity in Directive 2207/59/EC member states had applied this requirement differently which ultimately jeopardised the introduction of a harmonised licence system for train drivers through the European Union. The proposed amending regulations provide further clarity on the language skills required.

4. Consultation

- 4.1 The Department has completed an extensive consultation exercise in relation to the Statutory Rule. One response was received to the consultation and the Department has formally replied.

5. Equality Impact

- 5.1 As part of the consultation on these legislative proposals the Department has written to all those parties in accordance with the Departments Equality Scheme. The Consultees attention was drawn to the Section 75 criteria and their views sought on any potential impacts that may arise from the implementation of these legislative proposals. The Department has considered the proposed legislative provisions against the Section 75 criteria and the responses to the consultation process and in conjunction with the Equality Unit and the Human Rights Unit has screened out the requirement for an Equality Impact Assessment in relation to these legislative proposals.

6. Regulatory Impact

- 6.1 The Department has considered the proposed legislative provisions against the criteria for regulatory impact and concluded that this is not required for these legislative proposals.

7. Financial Implications

- 7.1 There are no significant financial implications arising from the proposals and a regulatory impact assessment is not required.

8. Section 24 of the Northern Ireland Act 1998

- 8.1 There are no implications arising in relation to Section 24 of the Northern Ireland Act 1998.

9. EU Implications

9.1 These Regulations put in place the amendments outlined in Directive 2014/82 EU.

10. Parity or Replicatory Measure

10.1 Not applicable to this Statutory Rule.

11. Additional Information

11.1 The provisions of the Regulations are as follows –

Regulation 2:

- Amends regulation 4(1) to the 2010 Regulations and adds ORR, (Office of Rail and Road) to the statutory authorities who can issue a valid train driver licence for use on the Northern Ireland Railway infrastructure.
- Amends Schedule 1 to the 2010 Regulations so as to remove the option which permitted drivers who had lost binocular vision after starting work as a train driver to continue to drive trains providing suitable adaptations could be made.
- Replaces Schedule 3 to the 2010 Regulations on general professional knowledge with revised and more detailed provisions on the requirement for general professional knowledge
- Replaces paragraph 8 of Schedule 4 to the 2010 Regulations to introduce a new standard for language tests where drivers have to communicate on safety critical issues.

Regulation 3:

- Provides transitional provisions for drivers who have obtained a train driving licence before 21st March 2016.