
STATUTORY INSTRUMENTS

2010 No. 724

The Train Driving Licences and Certificates Regulations 2010

PART 13

ENFORCEMENT

Anti-fraud measures

37. The ORR, railway undertakings and infrastructure managers must take such steps as are reasonably necessary to avoid—

- (a) the falsification of train driving licences and train driving certificates, and
- (b) the tampering with the registers required by regulations 24 and 25.

Enforcement

38.—(1) It is the duty of the ORR to make adequate arrangements for the enforcement of these Regulations.

(2) Subject to paragraph (5), the provisions of the 1974 Act specified in paragraph (3) (“the specified provisions”) apply for the purposes of the enforcement of these Regulations as if in the specified provisions—

- (a) a reference to the “enforcing authority” was a reference to the ORR;
- (b) a reference to the “relevant statutory provisions” was a reference to these Regulations and to the specified provisions; and
- (c) a reference to “health and safety regulations” was a reference to these Regulations.

(3) The provisions of the 1974 Act referred to in paragraph (2) are—

- (a) sections 19 and 20 (appointment and powers of inspectors)(**1**), excluding section 20(3);
- (b) sections 21 and 22 (improvement and prohibition notices)(**2**);
- (c) section 23 (provisions supplementary to sections 21 and 22), excluding section 23(3), (4) and (6);
- (d) section 24 (appeal against improvement and prohibition notices)(**3**);
- (e) section 26 (power to indemnify inspectors);
- (f) section 28 (restrictions on disclosure of information)(**4**);

(1) Section 20(7) was amended by the Civil Partnership Act 2004 (c.33), Schedule 27, paragraph 49.

(2) Section 22(1) and (2) were amended by, and section 22(4) was substituted by, the Consumer Protection Act 1987 (c.43), Schedule 3.

(3) Section 24(2) and (4) were amended by the Employment Rights (Dispute Resolution) Act 1998 (c.8), section 1(2)(a).

(4) Section 28(4) was substituted by S.I. 2008/960. Section 28(5) was amended by S.I. 2004/3363. Section 28(9) was inserted by the Employment Protection Act 1975 (c.71), Schedule 15, paragraph 9. There are other amendments to section 28 not relevant to these Regulations.

(g) sections 33(1)(c), (e) to (h), (j) to (o), 34(2), 36(1) and (2), 37 to 41 and 42(1) to (3) (provision as to offences)⁽⁵⁾; and

(h) section 46 (service of notices).

(4) The mode of trial and maximum penalty applicable to each offence under section 33 of the 1974 Act so applied and listed in the first column of the following table are set out opposite that offence in the subsequent columns of the table.

| <i>Offence</i> | <i>Mode of trial</i> | <i>Penalty on summary conviction</i> | <i>Penalty on conviction on indictment</i> |
|---|-----------------------------|---|--|
| An offence under section 33(1) (c), (e), (f), (g), (j), (k), (l), (m) or (o). | Summarily or on indictment. | Imprisonment for a term not exceeding 3 months, or a fine not exceeding level 5 on the standard scale as it has effect from time to time (as if the offence was triable only summarily), or both. | Imprisonment for a term not exceeding 2 years, or a fine, or both. |
| An offence under section 33(1) (h). | Summarily only. | Imprisonment for a term not exceeding 3 months, or a fine not exceeding level 5 on the standard scale as it has effect from time to time, or both. | |
| An offence under section 33(1) (n). | Summarily only. | A fine not exceeding level 5 on the standard scale as it has effect from time to time. | |

(5) A failure to discharge a duty placed on the Office of Rail Regulation by these Regulations is not an offence under section 33(1)(c) of the 1974 Act.

(5) Section 33(1)(c) was amended by the Employment Protection Act 1975 (c.71), Schedule 15, paragraph 11, and Schedule 18. Section 33(1)(m) was amended by the Forgery and Counterfeiting Act 1981 (c.45), the Schedule, Part 1.