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STATUTORY RULES OF NORTHERN IRELAND

2010 No. 132

TRANSPORT

The Train Driving Licences and Certificates Regulations (Northern Ireland) 2010

Made - - - - *30th March 2010*
Coming into operation *10th May 2010*

The Department for Regional Development⁽¹⁾ being a Department designated⁽²⁾ for the purposes of section 2(2) of the European Communities Act 1972⁽³⁾ in relation to measures relating to railways and railway transport, in exercise of the powers conferred by that section makes the following Regulations:

PART 1 GENERAL

Citation and commencement

1.—(1) These Regulations may be cited as the Train Driving Licences and Certificates Regulations (Northern Ireland) 2010.

(2) These Regulations come into operation on 10th May 2010 but will have effect in accordance with the transitional provisions in regulation 41.

Commencement Information

II [Reg. 1](#) in operation at 10.5.2010, see [reg. 1\(2\)](#)

(1) [SI 1999/283](#).
(2) [SI 1996/266](#).
(3) [1972 c. 68](#).

Interpretation

2.—(1) In these Regulations—

“the 1978 Order” means the Health and Safety at Work (Northern Ireland) Order 1978⁽⁴⁾;

“the Agency” means the European Railway Agency established by Regulation (EC) No 881/2004 of the European Parliament and of the Council establishing a European Railway Agency⁽⁵⁾;

“the Department” means the Department for Regional Development;

“the Directive” means Directive 2007/59/EC of the European Parliament and of the Council on the certification of train drivers operating locomotives and trains on the railway system in the Community⁽⁶⁾;

“employed” means employed whether under a contract of employment or as an independent contractor, and related expressions must be construed accordingly;

“infrastructure manager” means a person who is required, by regulation 3 of the Railways (Safety Management) Regulations (Northern Ireland) 2006⁽⁷⁾, to be the holder of a safety authorisation;

“railway undertaking” means a person who is required, to be the holder of a safety certificate;

“recognised doctor” means a registered medical practitioner whose name appears in a register of doctors that the Department has published, or caused to be published, under regulation 21(1)(a);

“recognised examiner” means a person whose name appears in a register of examiners that the Department has published, or caused to be published, under regulation 21(1)(d);

“recognised psychologist” means a person who holds the qualification of the British Psychological Society Certificate in Occupational Testing (Level A) and whose name appears in a register of psychologists that the Department has published, or caused to be published, under regulation 21(1)(b);

“recognised trainer” means a person whose name appears in a register of trainers that the Department has published, or caused to be published, under regulation 21(1)(c);

“safety authority” means an authority established in an EEA State, other than in the United Kingdom, in accordance with article 16.1 of Directive 2004/49/EC of the European Parliament and of the Council on safety on the Community’s railways and amending Council Directive 95/18/EC on the licensing of railway undertakings and Directive 2001/14/EC on the allocation of infrastructure capacity and the levying of charges for the use of railway infrastructure and safety certification⁽⁸⁾;

“safety management system”, in relation to a railway undertaking or an infrastructure manager, means the organisation and arrangements established by it, under regulation 4 of the Railway (Safety Management) Regulations (Northern Ireland) 2006, to ensure the safe management of its operation;

“train” includes a locomotive, a shunting locomotive, a work train and a maintenance railway vehicle;

“train driving certificate” means a certificate, required by article 4(1)(b) of the Directive, indicating the rolling stock which the holder is authorised to drive and the infrastructure on which the holder is authorised to drive it;

(4) SI 1978/1039 (N.I. 9).

(5) Corrected version in O.J. No. L220, 21.6.2004, p. 3.

(6) O.J. No. L315, 3.12.2007, p. 51.

(7) SR 2006/237.

(8) O.J. No. L164, 30.4.2004, p. 44.

“train driving licence” means a licence, required by article 4(1)(a) of the Directive, indicating the holder satisfies medical, educational and professional skills requirements for train driving.

(2) Subject to paragraph (1) words and expressions used in these Regulations have the same meaning as in the Directive.

(3) The Interpretation Act (Northern Ireland) 1954(9) shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

Commencement Information

I2 [Reg. 2](#) in operation at 10.5.2010, see [reg. 1\(2\)](#)

Application and extent

3. These Regulations apply in relation to the driving of trains on the Northern Ireland railway network.

Commencement Information

I3 [Reg. 3](#) in operation at 10.5.2010, see [reg. 1\(2\)](#)

PART 2

LICENSING AND CERTIFICATION OF TRAIN DRIVERS

Requirement for licences and certificates

4.—(1) Subject to paragraph (10) a railway undertaking must not cause or permit a person to drive a train unless that person is authorised to do so by a train driving licence issued by the Department or a safety authority.

(2) Subject to paragraph (6) and (10), a railway undertaking must not cause or permit any person to drive a particular category of train, or to drive a train on particular infrastructure, unless that person is authorised to do so by a train driving certificate issued by it.

(3) Subject to paragraphs (6) and (10), a person may not drive a train unless that person is authorised to do so by—

- (a) a train driving licence, and
- (b) a train driving certificate for the category of train driven and the infrastructure used.

(4) Subject to paragraph (10), a person who drives a train must have their train driving licence and their train driving certificate with them whilst driving it or otherwise be able on board the train to satisfy the Department or their inspector duly appointed under regulation 40, that they are so authorised to drive the train by the required train driving licence and train driving certificate.

(5) Subject to paragraph (10), a railway undertaking must take reasonable steps to ensure that a person they cause or permit to drive a train has their train driving licence and their train driving certificate with them whilst driving it, or are otherwise able to satisfy the requirements of paragraph (4)

(9) 1954 c. 33 (N.I.).

(6) Subject to paragraph (7) and if a railway undertaking so decides a train driver it causes or permits to drive a train on specific infrastructure need not be authorised by their train driving certificate to drive it on that infrastructure in the following cases—

- (a) where a disturbance to railway services has occurred which requires the re-routing of the train or the maintenance of tracks, as specified by the infrastructure manager concerned;
- (b) an exceptional one-off service which uses a historical train;
- (c) an exceptional one-off freight service provided that the infrastructure manager concerned has agreed;
- (d) the delivery of, or demonstration of, a new train; or
- (e) to enable the training or the examination of the train driver.

(7) Paragraph (6) does not apply unless—

- (a) subject to regulation 41(9), another train driver, who holds a train driving licence and a train driving certificate relating to the specific infrastructure, accompanies and supervises the driver in the cab whilst the train is driven on that infrastructure; and
- (b) the infrastructure manager of the specific infrastructure is given prior notice.

(8) An infrastructure manager may not oblige a railway undertaking to make a decision under paragraph (6).

(9) A train driving licence issued by a safety authority on the basis of an exemption from the medical requirements set out in Schedule 1 is not valid in Northern Ireland.

(10) Subject to regulation 41(10), a person who is training to be a train driver may drive a train without being authorised to do so by a train driving licence or a train driving certificate provided that a train driver, who is authorised by a train driving certificate relating to the category of train driven and the infrastructure used, accompanies and supervises that person in the cab whilst that person drives the train.

Commencement Information

I4 [Reg. 4](#) in operation at 10.5.2010, see [reg. 1\(2\)](#)

VALID FROM 31/12/2010

Licence and certificate characteristics

5.—(1) The form of a train driving licence issued by the Department and a train driving certificate, issued by a railway undertaking under these Regulations must comply with the requirements set out in Schedule 2.

(2) In particular, a train driving certificate must show the categories within which the train driver may drive comprising either or both of—

- (a) Category A — shunting locomotives, work trains, maintenance railway vehicles and all other locomotives when they are used for shunting; and
- (b) Category B — carriage of passengers or goods or both.

VALID FROM 31/12/2010

Ownership of train driving licence

6. A train driving licence is owned by the person named in it as the holder.

VALID FROM 31/12/2010

Ownership of the train driving certificate

7. A train driving certificate is owned by the railway undertaking which issued it to the holder.

VALID FROM 31/12/2010

PART 3

CONDITIONS FOR OBTAINING LICENCES AND CERTIFICATES

Conditions for obtaining a train driving licence

8.—(1) The Department must issue a train driving licence to an applicant if it is satisfied the applicant has—

- (a) attained the age of 20 years;
- (b) completed nine years education (primary and secondary);
- (c) successfully completed basic training equivalent to at least level 3 referred to in Council Decision [85/368/EEC](#) on the comparability of vocational training qualifications between the Member States of the European Community⁽¹⁰⁾;
- (d) passed the required medical examination;
- (e) passed the required occupational psychological fitness examination; and
- (f) passed the required general professional competence examination.

(2) For the purpose of paragraph (1)(d) the required medical examination means a medical examination that covers the criteria set out in paragraph 1 of Schedule 1, includes the minimum content set out in paragraph 2(1) of Schedule 1 and is conducted by or under the supervision of a recognised doctor.

(3) For the purpose of paragraph (1)(e) the required occupational psychological fitness examination means an examination that comprises the minimum content set out in paragraph 2(2) of Schedule 1 and is conducted by or under the supervision of a recognised psychologist or recognised doctor.

(4) For the purpose of paragraph (1)(f) the required general professional competence examination means an examination that covers the objectives and requirements set out in Schedule 3.

⁽¹⁰⁾ O.J. No. L199, 31.7.1985, p. 56.

Conditions for obtaining a train driving certificate

9.—(1) A railway undertaking must issue a train driving certificate to an applicant if it is satisfied the applicant—

- (a) is employed by it to be train driver;
 - (b) possesses the required language skills;
 - (c) has passed the required specific professional knowledge examinations; and
 - (d) has been trained by it in relation to its safety management system.
- (2) For the purpose of paragraph (1)(b)—
- (a) the required language skills means knowledge of the language relevant to the infrastructure to which the certificate is to relate that meets the language test requirements set out and referred to in paragraph 8 of Schedule 4; and
 - (b) to test this a railway undertaking may include a language component in the examinations referred to in paragraph (1)(c).
- (3) For the purpose of paragraph (1)(c)—
- (a) the required specific professional knowledge examinations means examinations of professional knowledge and competence relating to the rolling stock and to the infrastructure for which the certificate is sought (including route knowledge and operating rules and procedures) and covers the subjects set out in paragraphs 1 to 7 of Schedule 4 and in Schedule 5; and
 - (b) those examinations must comprise both theoretical and practical assessment including assessment of the driving ability of the applicant during driving tests on the infrastructure.
- (4) For the purpose of paragraph (3)(b) simulators may be used for examining the application of operational rules and driver performance in particularly difficult situations.
- (5) When determining whether to issue a train driving certificate a railway undertaking must take account of any document presented to it by the applicant that the applicant has obtained by virtue of regulation 16(3).

VALID FROM 31/12/2010

PART 4

PROCEDURE FOR OBTAINING LICENCES AND CERTIFICATES

Procedure for obtaining a train driving licence

10.—(1) The Department must publish on its website the application procedures for obtaining a new train driving licence, for the updating of the particulars of such a licence, for the renewal of such a licence and for the issue of a duplicate licence.

(2) All applications must be lodged with the Department by the applicant or an entity acting on the applicant's behalf, and must be made in accordance with the procedures published in accordance with paragraph (1).

(3) The Department must within one month of receiving all the necessary documents determine the application.

(4) Where satisfied a train driving licence should be issued or renewed the Department must issue it in the form of a single original.

(5) The Department may issue a duplicate train driving licence.

Procedure for obtaining a train driving certificate

11.—(1) A railway undertaking must set up—

- (a) as part of its safety management system, its own procedures for the issue and updating of train driving certificates; and
- (b) a procedure for a person to request a review by it of a decision it has made concerning them relating to the issue, updating, suspension or withdrawal of a train driving certificate.

(2) A railway undertaking must update, without delay, a train driving certificate issued by it whenever the holder has obtained additional authorisations relating to rolling stock or infrastructure.

(3) A person who has requested a review of a decision under paragraph (1)(b) may appeal to the Department if dissatisfied with the outcome.

(4) A railway undertaking must publish on its website—

- (a) the procedures referred to in paragraph (1), and
- (b) the availability of an appeal to the Department under paragraph (3),

and applications or requests made to them under paragraph (1) must be made in accordance with the procedures referred to in that paragraph.

(5) The Department must publish on its website its procedure for appeals under paragraph (3) and such appeals must be made in accordance with that procedure.

(6) The Department must, within two months of the date of receipt of all relevant information in relation to an appeal made to it under paragraph (3)—

- (a) determine the appeal; and
- (b) where appropriate, issue a direction to the railway undertaking against whose decision the appeal is brought requiring that body to remedy the matter that gave rise to the appeal.

(7) Without prejudice to the right of any person to make an application for judicial review—

- (a) a determination by the Department on an appeal brought under paragraph (3) is binding; and
- (b) it is the duty of a railway undertaking to whom a direction is given under paragraph (6) to comply with and give effect to that direction.

VALID FROM 31/12/2010

PART 5

VALIDITY OF LICENCES AND CERTIFICATES

Validity and renewal of train driving licences

12.—(1) Subject to regulation 34 and 37 and paragraph (3), a train driving licence is valid for 10 years.

(2) The Department must not renew a train driving licence unless it is satisfied that the holder has complied with regulation 13 and passed any examinations undergone in pursuance of it and undergoes continuous training, as required by regulation 28(d), to ensure the driver's general professional knowledge is maintained.

(3) A train driving licence ceases to be valid once it is suspended or withdrawn.

Periodic checks to maintain validity of licence

13.—(1) The holder of a train driving licence must pass periodic medical and psychological examinations relating to the requirements described in regulation 8(3) and (4).

(2) For the purpose of paragraph (1) periodic examinations with regard to medical requirements means examinations conducted at the minimum frequency and at other times set out in paragraph 3 of Schedule 1.

Validity of certificate

14. A train driving certificate ceases to be valid once it is suspended or withdrawn or regulation 16(2) applies

Periodic checks to maintain validity of certificate

15.—(1) The holder of a train driving certificate must undergo periodic examinations relating to the requirements described in regulation 9(1)(b) to (d).

(2) For the purpose of paragraph (1), the frequency of periodic examinations must be as determined by the railway undertaking that has issued the certificate in accordance with its safety management system, but must not be less than the minimum frequencies set out in Schedule 6.

(3) When the holder of a train driving certificate passes the examinations required by paragraph (1) the certificate must be endorsed with a statement to that effect by the railway undertaking that issued it.

Cessation of employment

16.—(1) A railway undertaking must give written notice to the Department when a train driver ceases to be employed by it as a train driver.

(2) When a person ceases to be employed as a train driver by a railway undertaking a train driving certificate issued by it in relation to that employment ceases to be valid.

(3) If a train driving certificate becomes invalid by virtue of paragraph (2), the railway undertaking that issued it must provide the train driver with—

(a) a certified copy of it endorsed to indicate when it ceased to be valid; and

- (b) a copy of all documents providing evidence of the driver's training, qualifications, experience and professional competence relevant to train driving undergone, obtained or achieved by the driver whilst employed as a train driver by that body.

Monitoring

17.—(1) A railway undertaking must establish a system for monitoring train drivers employed by it.

(2) If the results of that monitoring call into question a train driver's competence for the job or the continuing validity of their train driving licence or train driving certificate, the railway undertaking must immediately take any necessary action which may include—

- (a) informing the Department of matters relevant to the continuing validity of the licence;
- (b) requiring that driver to undergo the relevant examinations and training referred to in regulations 8(1)(d) to (f) and 9(1)(b) to (d); and
- (c) suspension or withdrawal of their train driving certificate.

(3) A train driver who considers that his state of health calls into question his fitness to drive trains must immediately inform the railway undertaking by whom he is employed.

(4) A railway undertaking that becomes aware that a train driver employed by it has failed to comply with regulation 13 or 15, or has failed an examination required by those regulations, or that the health of a train driver has deteriorated to a point where his fitness for the job is called into question, must immediately take any necessary action which may include—

- (a) informing the Department of matters relevant to the continuing validity of the licence;
- (b) requiring that driver to undergo the relevant periodic examinations referred to in regulations 13 or 15; or
- (c) suspension or withdrawal of his train driving certificate.

(2) A railway undertaking must inform the Department when a train driver employed by it has suffered work incapacity for a period of more than three months.

VALID FROM 31/12/2010

PART 6

REVIEW OF THE DEPARTMENT'S DECISIONS

Review of decisions of the Department

18.—(1) The Department must state in writing the reasons for any decision made by it under these Regulations.

(2) A person concerned may request a review of any decision made by the Department under regulation 10. For the purpose of paragraph (2) a person is concerned if he is the applicant or is the employer of the applicant.

Review process

19.—(1) The Department must publish on its website its procedure for reviews under regulation 18(2) and requests for such reviews must be made in accordance with the procedure.

(2) The Department must, within two months of the date of receipt of all relevant information in relation to a review to which this regulation applies, make a decision in respect of that review and, where appropriate, give effect to it.

PART 7

DELEGATION OF FUNCTIONS BY THE DEPARTMENT

Delegation of functions by the Department

20.—(1) Subject to paragraphs (2) and (3), the Department may delegate to any person the exercise of the following functions—

- (a) determining applications made under regulation 10 and issuing any associated documents;
- (b) recognising trainers and examiners under regulation 21;
- (c) establishing, keeping up to date and publishing registers of persons recognised under regulation 21; and
- (d) establishing and keeping up to date a register of train driving licences under regulation 22.

(2) If the Department delegates any such function—

- (a) the delegation does not affect the responsibility of the Department for the exercise of those functions;
- (b) the person to whom it is delegated must comply with the same requirements of these Regulations as would apply to the Department in the exercise of those functions; and
- (c) the Department must establish a system for monitoring how the function is carried out.

(3) The Department may not delegate the functions referred to in regulation 20(1)(a) to a railway undertaking except for the purposes of that body carrying out those functions in relation to persons who are employed by the body as train drivers or are applying to them to be so employed.

Commencement Information

15 [Reg. 20](#) in operation at 10.5.2010, see [reg. 1\(2\)](#)

PART 8

REGISTERS AND INFORMATION

VALID FROM 31/12/2010

Registers of recognised persons

21.—(1) The Department must establish, keep up to date and publish registers of—

- (a) doctors;
- (b) psychologists;
- (c) trainers; and
- (d) examiners

recognised by the Department as competent to carry out functions under, or referred to in, regulations 8, 29 and 31.

(2) Trainers and Examiners may be individuals or bodies of persons corporate or unincorporated.

(3) Subject to paragraphs (4) and (5), the inclusion of a person in a register referred to in paragraph (1) must be based on the criteria of independence, competence and impartiality.

(4) Paragraph (3) does not apply if and to the extent that the Commission approves an exception under article 20(2) of the Directive.

(5) The criterion of independence referred to in paragraph (3) does not apply in respect of the training referred to in regulation 29.

Registers of train driving licences

22.—(1) The Department must establish and keep up to date a register of train driving licences issued, updated, renewed, amended, expired, suspended or withdrawn by it, and any such licences reported lost, stolen or destroyed.

(2) The register must contain the data required for licences by paragraph 4 of Schedule 2 and must be accessible by the use of a national number allotted to each train driver.

Commencement Information

I6 [Reg. 22](#) in operation at 10.5.2010, see [reg. 1\(2\)](#)

Registers of train driving certificates

23.—(1) Each railway undertaking must establish and keep up to date, a register of all train driving certificates issued, updated, suspended or withdrawn by it, and any such certificates reported lost, stolen or destroyed.

(2) The register must contain the data required for certificates by paragraph 4 of Schedule 2.

Commencement Information

I7 [Reg. 23](#) in operation at 10.5.2010, see [reg. 1\(2\)](#)

Information for the register of train driving licences

24. If the Department delegates its functions under regulations 20(1)(a) to a railway undertaking, that undertaking must provide the Department with any information it obtains which is required by the Department to keep the register of train driving licences required by regulation 22 up to date.

Commencement Information

I8 [Reg. 24](#) in operation at 10.5.2010, see [reg. 1\(2\)](#)

VALID FROM 31/12/2010

Information relating to the status of train driving licences

25. The Department must, upon request, provide information on the status of train driving licences to safety authorities, the Agency and any employer of train drivers.

VALID FROM 31/12/2010

Information relating to train driving certificates etc.

26. Railway undertakings must provide to the Department any information reasonably requested relating to train driver's certificates issued by them or any other functions carried out by them under these Regulations.

VALID FROM 31/12/2010

Information in relation to international train services

27. Railway undertakings must, upon request, provide to the Department and safety authorities information on the content of train driving certificates issued by them in relation to train drivers engaged on international train services

VALID FROM 31/12/2010

PART 9

TRAINING AND EXAMINATION

Training content

- 28.—(1) A railway undertaking that employs train drivers must ensure that their training—
- (a) complies with the requirements of, and takes into account the guidance given in, Schedule 7;
 - (b) includes instruction on train driving licences and covers the general professional knowledge, and meets the objectives, set out in Schedule 3;
 - (c) includes instruction on train driving certificates, and covers the general professional knowledge, and meets the objectives, set out in Schedules 4 and 5; and;
 - (d) meets the requirements for continuous training which—
 - (i) are set up to ensure that staff competencies are maintained; and
 - (ii) form part of the safety management system of the railway undertaking.

(2) The training objectives referred to in paragraphs (1)(b) and (c) may be supplemented by any relevant technical specifications for interoperability adopted from time to time by the Communities under Council Directive [96/48/EC](#) on the interoperability of the trans — European

high-speed rail system⁽¹¹⁾, Directive [2001/16/EC](#) of the European Parliament and of the Council on the interoperability of the conventional rail system⁽¹²⁾ or Directive [2008/57/EC](#) of the European Parliament and of the Council on the interoperability of the rail system within the Community⁽¹³⁾ and published in the Official Journal.

Trainers

29.—(1) Subject to paragraph (2), a person may only provide training intended to enable satisfaction of the following—

- (a) the condition in regulation 8(1)(f) relating to general professional competence required for obtaining a train driving licence;
- (b) the condition in regulation 9(1)(b) relating to language skills required for obtaining a train driving certificate; or
- (c) the condition in regulation 9(1)(c) relating to specific professional knowledge required for obtaining a train driving certificate;

if that person is a trainer accredited or recognised as such by any Member State for the purposes of the Directive.

(2) Training relating to infrastructure knowledge, including route knowledge and operating rules and procedures may only be provided by a trainer recognised by the Department under regulation 21(1).

Cost of training

30.—(1) If a train driver voluntarily leaves the employment of one railway undertaking for another in circumstances where because of the cost the first employer has incurred in the training of that driver an undue benefit accrues to the second employer, the first employer is entitled to a reasonable contribution to those costs from the second employer.

(2) In determining what is a reasonable contribution for the purpose of paragraph (1), railway undertakings must have regard to such guidance as may be published by the Department.

Examinations

31.—(1) The Department must—

- (a) set or approve the general professional competence examination referred to in regulation 8(1)(f);
- (b) designate the examiner; and
- (c) include guidance and information about the examination in the publication it makes on its website in pursuance of regulation 10(1).

(2) A railway undertaking must—

- (a) set or approve the specific professional knowledge examinations relevant to its rolling stock or infrastructure, as the case may be, as referred to in regulation 9(1)(c);
- (b) designate the examiner for the examinations it sets or approves; and
- (c) include guidance and information about the examination in the publication it makes on its website in pursuance of regulation 11(4).

⁽¹¹⁾ O.J. No. L235, 17.9.1996, p. 6 as last amended by Commission Directive [2007/32/EC](#) (O.J. No. L141, 2.6.2007, p. 63).

⁽¹²⁾ O.J. No. L110, 20.4.2001, p. 1 as last amended by Commission Directive [2007/32/EC](#).

⁽¹³⁾ O.J. No. L191, 18.7.2008, p. 1.

(3) Subject to paragraph (4), a person may only be designated as an examiner under paragraphs (1)(b) or (2)(b) if that person is—

- (a) a recognised examiner; or
- (b) recognised or accredited as competent for the purpose by another Member State in accordance with article 20 of the Directive.

(4) In so far as an examination set or approved under paragraph (2)(a) is for infrastructure knowledge evaluation, including evaluation of route knowledge and operating rules and procedures, the examiner must be a recognised examiner.

(5) The Department or railway undertaking must ensure that the examinations referred to in paragraphs (1)(a) and (2)(a) which they set or approve are organised in such a way as to avoid any conflict of interest arising.

(6) Notwithstanding paragraph (5) a railway undertaking, may designate a recognised examiner under paragraph (2)(b) who is also its employee, provided the examiner has not trained the candidate for the examination.

PART 10

REVIEWING STANDARDS

VALID FROM 31/12/2010

Quality standards

32.—(1) Subject to paragraph (2), the Department must establish and implement a system to monitor and keep under continuous review the training, skills assessment and examination of train drivers under these Regulations with a view to ensuring appropriate standards are achieved and maintained.

(2) Paragraph (1) does not require the duplication of monitoring and review activities already required by and carried out under the safety management system of a railway undertaking.

Independent assessment

33.—(1) Subject to paragraph (2), five years after these Regulations come into force, and thereafter every five years, the Department must cause to be carried out, by an appropriately qualified and independent person, an assessment of—

- (a) the procedures for the training, skills assessment and examination of train drivers; and
- (b) the system for the issue of train driving licences and train driving certificates

under these Regulations.

(2) Paragraph (1) does not require the duplication of assessment already required by and carried out under the safety management system of railway undertakings.

(3) The Department must provide the results of each assessment to the railway undertakings.

(4) The Department, or railway undertakings must give due consideration to the findings and any recommendations of the independent person and take any action reasonably appropriate to remedy any shortcomings identified.

Commencement Information

19 Reg. 33 in operation at 10.5.2010, see reg. 1(2)

PART 11

SUSPENSION AND WITHDRAWAL OF LICENCES AND CERTIFICATES

VALID FROM 31/12/2010

Suspension or withdrawal of train driving licences issued by the Department

34.—(1) Without prejudice to regulation 37, if the Department considers that the holder of a train driving licence issued by the Department no longer satisfies a condition required for the holding of it the Department must—

- (a) suspend or withdraw the licence; and
- (b) inform the holder concerned and his employer of—
 - (i) the suspension or withdrawal;
 - (ii) the reasons for it;
 - (iii) the availability of the review procedure under regulation 18; and
 - (iv) any procedure to be followed to seek reinstatement of the licence.

(2) If the Department suspends or withdraws a train driving licence the holder must surrender it to the Department.

(3) If a safety authority —

- (a) informs the Department that it considers the holder of a train driving licence issued by the Department no longer satisfies a condition required for the holding of it; and
- (b) gives the Department a reasoned request for a review of the holder's eligibility to hold the licence, or for the licence to be suspended or withdrawn;

the Department must consider that request and, within four weeks, notify the safety authority, as the case may be, of its decision whether to suspend or withdraw the licence or take any other action.

Suspension or withdrawal of other train driving licences and driver prohibition

35.—(1) Without prejudice to regulation 37, if the Department considers that the holder of a train driving licence issued by another safety authority, no longer satisfies a condition required for the holding of it the Department must—

- (a) inform the safety authority, as the case may be, of this view;
- (b) give that authority as the case may be, a reasoned request for a review of the driver's eligibility to hold the licence, or for the licence to be suspended or withdrawn; and
- (c) notify the Commission, the other safety authorities of the request.

(2) Pending any suspension or withdrawal of the licence, or other conclusion on the request referred to in paragraph (1), the Department may prohibit the train driver from driving a train in Northern Ireland.

Commencement Information**I10** Reg. 35 in operation at 10.5.2010, see **reg. 1(2)**

VALID FROM 31/12/2010

Suspension or withdrawal of train driving certificates and driver prohibition

36.—(1) Without prejudice to regulation 37, if the Department considers that the holder of a train driving certificate no longer satisfies a condition required for the holding of it the Department must—

- (a) inform the railway undertaking which issued it of this view; and
- (b) give that body a reasoned request for a review of the holders eligibility to hold the certificate, or for the certificate to be suspended or withdrawn.

(2) Upon receipt of such a request the railway undertaking must consider it and, within four weeks, notify the Department of its decision whether to suspend or withdraw the certificate or take any other action.

(3) Where the railway undertaking concludes that the holder no longer satisfies a condition required for the holding of the train driving certificate, it must take appropriate measures which may include—

- (a) requiring the holder to undergo the relevant periodic examinations referred to in regulation 14(1); and
- (b) suspension or withdrawal of the train driving certificate.

(4) Pending any suspension or withdrawal of the driving certificate or other conclusion on the request referred to in paragraph (1)(b), the Department may prohibit the holder from driving a train in Northern Ireland.

(5) If the Department exercises the power in paragraph (4) it must inform the Commission and the other safety authorities.

Serious threat to the safety of the railway

37.—(1) If the Department considers that a train driver is a serious threat to the safety of the railways it must immediately take any necessary action.

(2) For the purpose of paragraph (1) any necessary action may include—

- (a) requesting the railway undertaking to stop any train being driven by the driver;
- (b) suspending or withdrawing that train driving licence, if issued by the Department; or
- (c) prohibiting the train driver from driving a train in Northern Ireland.

(3) If the Department takes any action under this regulation it must inform the Commission and the other safety authorities.

Commencement Information**I11** Reg. 37 in operation at 10.5.2010, see **reg. 1(2)**

Appeal to the Commission

38.—(1) If the Department considers that a decision of a safety authority on a request made to it by the Department under regulation 35 does not comply with the relevant criteria it must refer the matter to the Commission in pursuance of article 29(5) of the Directive.

(2) For the purposes of paragraph (1), the relevant criteria means any criteria set out in the Directive which are relevant to the decision.

(3) If the Department has referred a matter to the Commission under paragraph (1), any prohibition imposed by the Department under regulation 35 may be maintained in force until the matter is concluded.

Commencement Information

I12 Reg. 38 in operation at 10.5.2010, see **reg. 1(2)**

PART 12 ENFORCEMENT

VALID FROM 31/12/2010

Anti-fraud measures

39. The Department and railway undertakings 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 22 and 23.

Enforcement

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

(2) Subject to paragraph (4), the provisions of the 1978 Order specified in paragraph (3) (“the specified provisions”) apply for the purpose of the enforcement of these Regulations as if in the specified provisions—

- (a) a reference to the “enforcing authority” was a reference to the Department;
- (b) a reference to the “relevant statutory provisions” was a reference to these Regulations;
- (c) a reference to “health and safety regulations” was a reference to these Regulations;
- (d) in article 31(2) the reference to “Schedule 3A” was a reference to Schedule 8 to these Regulations⁽¹⁴⁾.

(3) The provisions of the 1978 Order referred to in paragraph (2) are as follows—

- (a) articles 21 and 22 (appointment and powers of inspectors)⁽¹⁵⁾ excluding article 22(3);

⁽¹⁴⁾ Article 31(2) was substituted by the Health and Safety Offences Act 2008 (c. 20), Section 1(3).

⁽¹⁵⁾ Article 22(7) was amended by the Civil Partnership Act 2004 (c. 33), section 261(3) and Schedule 29, paragraph 7.

- (b) articles 23 and 24 (improvement and prohibition notices)(**16**);
 - (c) article 25 (provisions supplementary to articles 23 and 24)(**17**);
 - (d) article 26 (appeal against improvement and prohibition notices);
 - (e) article 28 (power to indemnify inspectors);
 - (f) article 30 (restrictions on disclosure of information)(**18**);
 - (g) articles 31(1)(c), (e) to (h), (j) to (o) and (2), 32(1)(c) and (d) and (2), 33, 34(1) and (2), 34 to 38 and 39(1) to (3) (provision as to offences)(**19**); and
- (4) A failure to discharge a duty placed on the Department by these Regulations shall not be an offence under section 31(1) of the 1978 Order.

Commencement Information

I13 Reg. 40 in operation at 10.5.2010, see **reg. 1(2)**

PART 13

TRANSITIONAL PROVISIONS

Transitional provisions

41.—(1) The registers referred to in regulations 22 and 23 must be established before 29th October 2011.

(2) These Regulations have effect on and from 29th October 2011 in relation to the driving of trains where a driver drives trains both in Northern Ireland and at least one other Member State.

(3) These Regulations have effect on 29th October 2013 in relation to the driving of trains where a train driver did not drive trains in Northern Ireland before that date.

(4) These Regulations have effect on 29th October 2018 in relation to a person to whom paragraphs (2) and (3) do not apply.

(5) Regulations 5 to 19, 21, 25 to 32, 34, 36, 39 and the schedules come into force on 31st December 2010.

(6) Where this paragraph applies, in determining a first application for a train driving licence the Department—

- (a) must take into account any train driving qualifications, experience and competencies acquired by the applicant prior to the application;
- (b) in exceptional cases may waive, in whole or in part, the requirement in regulation 8(1)(d) if it thinks it appropriate to do so provided that the validity of any train driving licence issued on the basis of such exemption is limited to Northern Ireland;

(16) Article 24(1) and (2) was amended by the Consumer Protection (Northern Ireland) Order 1987 S.I. 1987/2049 (N.I. 20), Article 28 and Schedule 2, paragraph 3. Article 24(3) was substituted by S.I. 1987/2049 N.I.20), Article 28 and Schedule 2, paragraph 3.

(17) Article 25(5) was amended by the Fire and Rescue Services (Northern Ireland) Order S.I. 2006/1254 (N.I. 9), Articles 1(3) and 63(1) and Schedule 3, paragraph 11.

(18) Article 30(1)(a) was amended by S.I. 1987/2049 (N.I. 20), Article 28 and Schedule 2, paragraph 6. Article 30(3)(a), 30(4) and 30(5)(a) were amended by the Health and Safety at Work (Amendment) (Northern Ireland) Order 1998 No. 2795 (N.I. 18), Article 6 and Schedule 1, paragraph 8.

(19) Article 31(1)(h) was amended by the Consumer Protection (Northern Ireland) Order 1987 S.I. 1987/2049 (N.I. 20), Article 28 and Schedule 2, paragraph 7. Article 31(1)(m) was amended by the Criminal Justice (Northern Ireland) Order 1986 No. 1883 (N.I. 15), Article 9.

- (c) may waive, in whole or in part, the requirement in regulation 8(1)(e) and (f) if it thinks it appropriate to do so; and
 - (d) may require the applicant to pass other examinations or tests, or undertake further training, if it thinks it appropriate to do so.
- (7) Where this paragraph applies, in determining a first application for a train driving certificate a railway undertaking—
- (a) must take into account any train driving qualifications, experience and competencies relevant to the rolling stock and infrastructure in relation to which the certificate is sought, acquired by the applicant prior to the application;
 - (b) may waive, in whole or in part, the requirement in regulation 9(1)(c) if it thinks it appropriate to do so; and
 - (c) may require the applicant to pass other examinations or tests, or undertake further training, if it thinks it appropriate to do so.
- (8) Paragraphs (6) and (7) apply to a first application for a train driving licence, or train driving certificate, where the applicant has driven trains in Northern Ireland before they were required to have a licence or certificate.
- (9) Until 31st May 2018, the reference in regulation 4(7)(a) to “another train driver, who holds a train driving certificate relating to the specific infrastructure” includes a train driver whom the railway undertaking is satisfied has sufficient knowledge and experience of the specific infrastructure to give the necessary supervision.
- (10) Until 31st May 2018, the reference in regulation 4(10) to a “train driver, who is authorised by a train driving certificate relating to the category of train driven and the infrastructure used” includes a train driver whom the relevant railway undertaking, or infrastructure manager, is satisfied has sufficient knowledge and experience of the category of train driven and infrastructure used to give the necessary supervision.
- (11) From the date these Regulations come into force each railway undertaking must ensure the gradual implementation of periodic checks, corresponding to those required by regulations 13 and 15, for each train driver employed by it pending those regulations coming into effect in relation to the driver.

Commencement Information

I14 [Reg. 41](#) in operation at 10.5.2010, see [reg. 1\(2\)](#)

Sealed with the Official Seal of the Department for Regional Development on 30th March 2010.

L.S.

B.R.D. White
A senior officer of the
Department

Status: Point in time view as at 10/05/2010. This version of this Rule contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the The Train Driving Licences and Certificates Regulations (Northern Ireland) 2010. (See end of Document for details)

VALID FROM 31/12/2010

SCHEDULE 1

Regulations 4, 8, and 13

MEDICAL REQUIREMENTS

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SCHEDULE 2

Regulations 5, 22 and 23

COMMUNITY MODEL TRAIN DRIVING LICENCE AND
HARMONISED COMPLEMENTARY TRAIN DRIVING CERTIFICATE

.....

SCHEDULE 3

Regulations 8 and 28

GENERAL PROFESSIONAL KNOWLEDGE AND
REQUIREMENTS REGARDING THE TRAIN DRIVING LICENCE

.....

SCHEDULE 4

Regulation 9 and 28

PROFESSIONAL KNOWLEDGE OF INFRASTRUCTURE AND
REQUIREMENTS REGARDING THE TRAIN DRIVING CERTIFICATE

.....

SCHEDULE 5

Regulation 9 and 28

PROFESSIONAL KNOWLEDGE OF ROLLING STOCK AND
REQUIREMENTS REGARDING THE TRAIN DRIVING CERTIFICATE

(This Schedule substantially reproduces the provisions of Annex V to the Directive)

After completing specific training in relation to rolling stock, drivers must be able to carry out the following tasks—

TESTS AND CHECKS PRIOR TO DEPARTURE

1. Drivers must be able to—
 - (a) collect the documentation and the necessary equipment,
 - (b) check the capacities of the traction unit,
 - (c) check the information entered in the documents on board the traction unit,

- (d) ensure, by performing the checks and tests specified, that the traction unit is capable of providing the required traction power, and that the safety equipment is operating,
- (e) checking the availability and functionality of the prescribed protection and safety equipments at the handover of a locomotive or at the start of a trip,
- (f) perform any routine preventative maintenance operations.

KNOWLEDGE OF ROLLING STOCK

2. To operate a locomotive, drivers must be familiar with all the controls and indicators placed at their disposal, in particular those concerning—

- (a) traction,
- (b) braking,
- (c) traffic safety-related elements.

In order to detect and locate anomalies in the rolling stock, report them and determine what is required to repair them, and in certain cases, to take action, drivers must be familiar with—

- (a) mechanical structures,
- (b) suspension and attachment equipment,
- (c) running gear,
- (d) safety equipment,
- (e) fuel tanks, fuel supply systems, exhaust equipment,
- (f) the meaning of markings on the inside and outside of the rolling stock, in particular the symbols used for the transportation of dangerous goods,
- (g) trip registration systems,
- (h) electrical and pneumatic systems,
- (i) collection of current and high-voltage systems,
- (j) communication equipment (ground-to-train radio, etc),
- (k) arrangement of trips,
- (l) the constituent parts of the rolling stock, their purpose, and the devices specific to the hauled stocks, in particular the system of stopping the train by venting the brake pipe,
- (m) braking system,
- (n) the parts specific to traction units,
- (o) traction chain, motors and transmission.

TESTING THE BRAKES

3. Drivers must be able to—

- (a) check and calculate, before departure, that the train's braking power corresponds to the braking power required for the line, as specified in the vehicle documents,
- (b) check the functioning of the various components of the braking system of the traction unit and of the train, as appropriate, before departure, at start-up and during running.

OPERATING MODE AND MAXIMUM SPEED OF THE TRAIN IN RELATION TO THE LINE CHARACTERISTICS

4. Drivers must be able to—

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- (a) take note of information given to them before departure,
- (b) determine the type of running and the limit speed of the train on the basis of variables such as speed limits, weather conditions or any signalling changes.

DRIVING THE TRAIN IN A WAY WHICH DOES NOT DAMAGE INSTALLATIONS OR VEHICLES

- 5. Drivers must be able to—
 - (a) use all available control systems in accordance with the applicable rules,
 - (b) start the train taking account of adhesion and power constraints,
 - (c) apply the brakes for decelerations and stops, taking account of the rolling stock and installations.

ANOMALIES

- 6. Drivers must—
 - (a) be able to be attentive to unusual occurrences concerning the behaviour of the train,
 - (b) be able to inspect the train and identify signs of anomalies, distinguish between them, react according to their relative importance and try to remedy them, always giving priority to the safety of rail traffic and persons,
 - (c) know the available means of protection and communication.

OPERATING INCIDENTS AND ACCIDENTS, FIRES AND ACCIDENTS INVOLVING PERSONS

- 7. Drivers must—
 - (a) be able to take steps to protect the train and summon assistance in the event of an accident involving persons on board the train,
 - (b) be able to determine whether the train is transporting dangerous goods and identify them on the basis of train documents and wagon lists,
 - (c) know the procedures relating to the evacuation of a train in case of emergency.

CONDITIONS FOR CONTINUING RUNNING AFTER AN INCIDENT INVOLVING ROLLING STOCK

8. After an incident, drivers must be able to assess whether the vehicle can continue to run and under what conditions, so as to inform the infrastructure manager of those conditions as soon as possible,

Drivers must be able to determine if an expert evaluation is necessary before the train can continue.

IMMOBILISATION OF THE TRAIN

9. Drivers must be able to take measures to ensure that the train, or parts thereof, does not start up or move unexpectedly, even in the most difficult conditions.

Furthermore, drivers must have knowledge about measures which can stop a train or parts thereof in case it has started to move unexpectedly.

SCHEDULE 6

Regulation 15

FREQUENCY OF EXAMINATIONS

(This Schedule substantially reproduces the provisions of Annex VII to the Directive)

The frequency of the periodic checks shall be as follows—

- (a) linguistic knowledge (only for non-native speakers): every three years or after any absence of more than one year,
- (b) infrastructure knowledge (including route and operation rules knowledge): every three years or after any absence of more than one year on the relevant route,
- (c) knowledge of rolling stock: every three years.

SCHEDULE 7

Regulation 28

TRAINING METHOD

(This Schedule substantially reproduces the provisions of Annex III to the Directive)

There must be a good balance between theoretical training (classroom and demonstrations) and practical training (on-the-job experience, driving with supervision and driving without supervision on tracks which are closed off for training purposes).

Computer-aided training must be accepted for individual learning of the operational rules, signalling situations, etc.

The use of simulators, although not obligatory, may be useful for the effective training of drivers; they are particularly useful for training in abnormal working conditions or for rules infrequently applied. They have a particular advantage in their ability to provide learning-by-doing capability for events that cannot be trained in the real world. In principle, simulators of the latest generation must be used.

Concerning the acquisition of route knowledge, the approach to be favoured must be where the train driver accompanies another driver for an appropriate number of journeys along the route, in daylight as well as at night. Videos of the routes as seen from the driver's cab may be used, among other methods, as an alternative training method.

SCHEDULE 8

Regulation 40

OFFENCES: MODE OF TRIAL AND MAXIMUM PENALTY

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EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement, for Northern Ireland, Directive [2007/59/EC](#) (Official Journal L315, 3.12.2007 p. 51), the certification of train drivers driving locomotives and trains on the railway system in the Community.

They establish a system for the licensing and certification of train drivers who drive trains on the mainline railway network. A railway undertaking will not cause or permit a person to drive a train on the Northern Ireland network unless that person is the holder of a licence, recognised by Member States, attesting to compliance with minimum criteria as regards medical, educational and general professional skills, and a certificate indicating the infrastructure on which the holder is authorised to drive and the rolling stock which the holder is authorised to drive (regulation 4). In Northern Ireland licences may be granted by the Department for Regional Development (regulation 8), and certificates may be granted by a railway undertaking (regulation 9).

Associated provisions are included, in particular provision for the training and examination of train drivers (Part 9), the establishment of registers of licences and certificates (regulation 22 and 23), the suspension and withdrawal of licences and certificates (Part 11), and enforcement (regulation 41).

After they come into operation the Regulations take effect gradually in phases in 2011, 2013 and 2018 (regulation 41), but the Department and railway undertaking are empowered to issue licences and certificates in advance of their becoming mandatory (regulation 41).

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Changes to legislation:

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