

2022 No. 85

CHANNEL TUNNEL

TRANSPORT

**The Train Driving Licences and Certificates (Amendment)
Regulations 2022**

Made - - - - - *27th January 2022*

Coming into force in accordance with regulation 1

The Secretary of State, acting as the appropriate Minister, makes these Regulations in exercise of the powers conferred by section 11(1)(a), (c), (d), (f) and (g), (2)(a) and (b), and (3)(a) of the Channel Tunnel Act 1987(a).

In accordance with section 34(3)(b) of that Act, a draft of this instrument has been laid before, and approved by a resolution of, each House of Parliament.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Train Driving Licences and Certificates (Amendment) Regulations 2022.

(2) These Regulations come into force at 11.00 p.m. on 31st January 2022, or, if they are made on or after 31st January 2022, on the day after the day on which they are made.

(3) These Regulations do not extend to Northern Ireland.

Amendment of the Train Driving Licences and Certificates Regulations 2010

2.—(1) The Train Driving Licences and Certificates Regulations 2010(b) are amended as follows.

(2) In regulation 2 (interpretation)—

(a) after the definition of “the 1974 Act” insert—

““British Channel Tunnel zone” means the part of the tunnel system within Great Britain together with the network—

(a) from the tunnel system to and including Ashford International station for railway passenger services using the tunnel system, or

(a) 1987 c. 53. See section 13 for the meaning of the “appropriate Minister”. There is an amendment to section 11 which is not relevant to these Regulations.

(b) S.I. 2010/724, as amended by S.I. 2013/950, S.I. 2015/1798, S.I. 2019/677 and S.I. 2020/786.

- (b) from the tunnel system to and including Dollands Moor freight yard for services for the carriage of goods by rail using the tunnel system;
 “Channel Tunnel train driving certificate” means a train driving certificate which authorises the holder to drive a train in the Channel Tunnel zone;
 “Channel Tunnel train driving licence” means a train driving licence which is held by a person who is at any time deployed by a railway undertaking or infrastructure manager to drive a train in the Channel Tunnel zone;
 “Channel Tunnel zone” means the British Channel Tunnel zone together with the French Channel Tunnel zone;”;
- (b) for the definition of “European train driving licence” substitute—
 ““European train driving licence” means a licence, issued by a safety authority in accordance with article 14 of the Directive, indicating the holder satisfies medical, educational and professional skills requirements for train driving;”;
- (c) after that definition insert—
 ““French Channel Tunnel zone” means the part of the tunnel system within France together with the network—
 (a) from the tunnel system to and including Calais-Fréthun station for railway passenger services using the tunnel system, or
 (b) from the tunnel system to and including Fréthun freight yard for services for the carriage of goods using the tunnel system;”;
- (d) after that definition insert—
 ““French licensing authority” means the body responsible for granting European train driving licences in France;”;
- (e) after the definition of “mainline railway” insert—
 ““network” has the meaning given in section 83(1) of the Railways Act 1993(a);”;
- (f) after the definition of the “ORR” insert—
 ““railway passenger service” has the meaning given in section 83(1) of the Railways Act 1993;”;
- (g) after the definition of “recognised trainer” insert—
 ““relevant European train driving licence” means a European train driving licence which is held by a driver who is at any time deployed by a railway undertaking or infrastructure manager to drive trains in the Channel Tunnel zone;”;
- (3) In regulation 4 (requirements for licences and certificates)—
 (a) in paragraph (1)(c), for “during the transitional period only” substitute “in the British Channel Tunnel zone;”;
 (b) in paragraph (4)(a), for “during the transitional period only” substitute “in the British Channel Tunnel zone”;
 (c) in paragraph (4A), for “during the transitional period only” substitute “in the British Channel Tunnel zone”;
 (d) after paragraph (4A) insert—
 “(4B) Subject to paragraphs (7) and (12)—
 (a) a railway undertaking or an infrastructure manager must not deploy a person to drive a particular type of train in the French Channel Tunnel zone unless that person is authorised to drive that type of train in that zone by a train driving certificate issued by it; and

(a) 1993 c. 43.

- (b) a person must not drive a particular type of train in the French Channel Tunnel zone unless that person is authorised to drive that type of train in that zone by a train driving certificate issued by the railway undertaking or infrastructure manager by whom that person is deployed to drive a train.”;
 - (e) in paragraph (11), for “during the transitional period only” substitute “in the British Channel Tunnel zone”.
- (4) In regulation 9 (conditions for obtaining a certificate), in paragraph (1A), for “during the transitional period only” substitute “in relation to the Channel Tunnel zone”.
- (5) In regulation 17 (monitoring), in paragraph (6), for “during the transitional period only” substitute “in relation to the Channel Tunnel zone”.
- (6) In regulation 19 (suspension or withdrawal of other train driving licences and driver prohibition), for paragraph (2) substitute—
- “(2) Without prejudice to regulation 21, if the ORR considers that the holder of a relevant European train driving licence no longer satisfies a condition required for holding it, the ORR—
- (a) must—
 - (i) inform the French licensing authority, and the Intergovernmental Commission of this view; and
 - (ii) notify the Intergovernmental Commission of any request made to the French licensing authority or other safety authority under sub-paragraph (b) or (c) and the French licensing authority of any request to another safety authority under sub-paragraph (c)(i);
 - (b) may, where the licence has been issued by the French licensing authority, give that authority a reasoned request for the licence to be suspended or withdrawn;
 - (c) may, where the licence has been issued by a safety authority other than the French licensing authority—
 - (i) inform that other authority of this view and make a reasoned request for the licence to be suspended or withdrawn; and
 - (ii) request the French licensing authority to give a reasoned request to that other authority for the licence to be suspended or withdrawn.”.
- (7) In regulation 20 (suspension or withdrawal of certificates and driver prohibition)—
- (a) for paragraph (1), substitute—

“(1) This regulation applies if —

 - (a) the ORR considers that the holder of a train driving certificate no longer satisfies a condition required for the holding of it; or
 - (b) the French licensing authority —
 - (i) has notified the ORR that it considers a driver is no longer competent or fit to drive a train in the Channel Tunnel zone; and
 - (ii) has requested the ORR to require the railway undertaking or infrastructure manager which has issued a train driving certificate to the driver to review the driver’s competence or fitness or to suspend or withdraw the certificate.
- (1A) Without prejudice to regulation 21, where this regulation applies, the ORR must—
- (a) inform the railway undertaking or infrastructure manager which issued the train driving certificate of its view or, as the case may be, of the view and request of the French licensing authority; and
 - (b) give the railway undertaking or infrastructure manager a reasoned request for a review of the holder’s eligibility to hold the certificate or for the certificate to be suspended or withdrawn.”;
- (b) for paragraph (5) substitute—

“(5) If the ORR exercises the power in paragraph (4) it—

- (a) must inform the Department for Infrastructure and the Intergovernmental Commission and, in the case of the holder of a Channel Tunnel train driving certificate, the French licensing authority; and
- (b) may, in the case of the holder of a Channel Tunnel train driving certificate who also holds a European train driving licence inform the safety authority which has issued that licence if this is not the French licensing authority.

(5A) Where the French licensing authority has notified the ORR of the matters referred to in paragraph (1)(b)(i) and has made the request referred to in paragraph (1)(b)(ii), the ORR must notify the French licensing authority of the response given by the railway undertaking or infrastructure manager under paragraph (2) promptly on receiving it.”.

(8) After regulation 26 (information relating to the status of licences) insert—

“Information sharing

26A. The ORR must without unreasonable delay provide information to the French licensing authority in relation to any Channel Tunnel train driving licence or any Channel Tunnel train driving certificate and the holder of any such licence or certificate—

- (a) on request by the French licensing authority on it notifying the ORR of any concerns or doubts in relation to the validity of that licence or train driving certificate;
- (b) if a railway undertaking or infrastructure manager has notified the ORR of any matters under regulation 17(2)(a), 17(4)(a) or 17(5);
- (c) if the ORR suspends or withdraws that licence or a railway undertaking or infrastructure manager notifies the ORR that it has suspended or withdrawn that certificate; or
- (d) if the ORR has taken any action under regulation 21 in relation to a train driver holding such a licence or certificate.”

Signed by authority of the Secretary of State for Transport

Wendy Morton
Parliamentary Under Secretary of State
Department for Transport

27th January 2022

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers conferred by the Channel Tunnel Act 1987 in order to amend the Train Driving Licences and Certificates Regulations 2010 (the “2010 Regulations”). This is to enable the implementation of an agreement with France for the mutual recognition of train driving licences in the Channel Tunnel and immediate cross-border areas (the “agreement”).

These Regulations amend the train driver licensing arrangements in the 2010 Regulations as they apply to train drivers with European train driving licences conducting cross-border services between UK and France. These Regulations provide for the recognition of European train driving licences issued to the drivers of such services by the relevant authorities in the EEA pursuant to Council 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 European Union (O.J. No. L 315, 3.12.2007, p.51).

Recognition of European train driving licences will apply in relation to the Channel Tunnel shuttle service and to cross-border services between the UK and France and as far as Ashford International station for passenger services or Dollands Moor freight yard for freight services. Under the agreement, equivalent provision is made for the recognition of train driving licences issued by the Office of Rail and Road (“ORR”) in Great Britain, in the French part of the Channel Tunnel and to Calais-Fréthun station or Fréthun freight yard.

The Regulations also amend the 2010 Regulations so as to require the certificates issued to train drivers on cross-channel services to include authorisation to drive in the French section of the Channel Tunnel and the immediate cross-border area in France to Calais-Fréthun or Fréthun freight yard.

These Regulations also provide for the ORR to share information with the French licensing authority responsible for issuing European train driving licences in France or with any other safety authority that has issued the licence, in relation to both holders of European train driving licences driving in the Channel Tunnel zone in Great Britain and to holders of train driving licences and train driving certificates driving in the Channel Tunnel zone in France.

A de minimis impact assessment was produced for this instrument which identified that no, or no significant, impact on the private or voluntary sector is foreseen from these Regulations. The Explanatory Memorandum produced for this instrument has been published alongside this instrument at www.legislation.gov.uk.

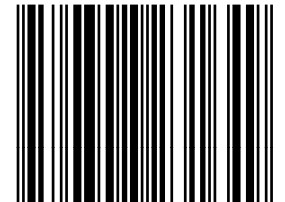
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