

**PROPOSAL FOR
THE TRAIN DRIVING LICENCES AND
CERTIFICATES (AMENDMENT) REGULATIONS
(NORTHERN IRELAND) 2016**

A CONSULTATION PAPER

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Background

The proposed Train Driving Licences and Certificates (Amendment) Regulations (Northern Ireland) 2016 (the amendment regulations) are being introduced 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.

A copy of the proposed draft amendment Regulations are attached at Annex A for your information.

The 2010 Regulations, which were made on 30th March 2010, mirror similar regulations made in Great Britain. The 2010 Regulations establish a system for the licensing and certification of drivers of trains on the mainline railway network thus ensuring that a railway undertaking will not permit a person to drive a train on the Northern Ireland network unless that person is authorised to do so. This is in keeping with the provisions set out in the Railways (Safety Management) Regulations (Northern Ireland) 2006 that employers are responsible for managing the competence and fitness of safety critical workers (such as drivers).

One of the aims of the EC Directive 2007/59/EC is to make it “easier for train drivers to move from one Member State to another, but also to make it easier for them to move from one railway undertaking to another”. Regulation 4(1) of the 2010 Regulations provides that a train driving licence may be issued by either the Department for Regional Development or a safety authority. However, 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 made by the proposed regulations is to include as valid those licences issued by the Office of Rail and Road in Great Britain.

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 however arrangements were also put in place for those drivers who obtained their licence prior to 1 July 2015 as they shall be considered as complying with the requirements of the Directive.

The amendment being made by the proposed regulations requires vision for both eyes to be effective.

Schedule 3 of the Train Driving Licences and Certificates Regulations (Northern Ireland) 2010 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 2007/59/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 amendment regulations aim to provide further clarity to the nature and extent of the general professional knowledge and requirements.

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 2007/59/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 amendment regulations provide further clarity on the communication skill required.

The Department would welcome any comments you may wish to make on the proposed legislation before it is brought to the Assembly for making and seeking affirmation.

The Department also invites your views on the potential impact, if any, you consider that the proposed legislation might have on equality of opportunity, human rights issues and rural impact.

The list of consultees is also provided. If you consider that this consultation should be copied to additional interested parties please contact me as soon as possible and I will ensure their inclusion.

An electronic copy of the Consultation Paper is available on the Department's internet site at <https://www.drdni.gov.uk/consultations/train-driving-licences-and-certificates-amendment-regulations-northern-ireland-2016> and copies can also be made available in alternative formats, if so required.

Comments on the proposed Order should be made in writing and may be forwarded electronically via e-mail to george.kearns@drdni.gov.uk or janette.galloway@drdni.gov.uk or, alternatively, via post to Mr George Kearns/Ms Janette Galloway, Department for Regional Development, Transport Policy, Strategy and Legislation Division, 3rd Floor, Clarence Court, 10 – 18 Adelaide Street, Belfast BT2 8GB.

The closing date for receipt of all responses is 22 January 2016.

The Department tries to make its consultation procedure as thorough and open as possible. Following the end of the consultation we shall publish details of the responses received. Information you provide in your response, including **personal information**, could be published or disclosed under the Freedom of Information Act 2000 (FOIA). Under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals with obligations of confidence. If you want the information that you provide to be treated as confidential it would be helpful if you

could explain why. Although we will take full account of your explanation we cannot give an assurance that confidentiality can be maintained in all circumstances. Any automatic confidentiality disclaimer generated by your IT system will not be regarded as binding on the Department.

For further information about the confidentiality of responses please contact the Information Commissioner's Office (or see web site at: www.ico.org.uk).

 STATUTORY RULES OF NORTHERN IRELAND

2016 No. *

TRANSPORT
**The Train Driving Licences and Certificates (Amendment)
Regulations (Northern Ireland) 2016**

Made - - - - - *** 2016

Coming into operation *** 2016

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

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Train Driving Licence and Certificates (Amendment) Regulations (Northern Ireland) 2016 and come into operation on ** 2016.

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

Amendment of the Train Driving Licences and Certificates Regulations (Northern Ireland) 2010

2.—(1) The Train Driving Licences and Certificates Regulations (Northern Ireland) 2010(e), the principle Regulations are amended as follows—

(2) In regulation 2, in the definition of “the Directive” at the end insert –“as amended by Commission Directive 2014/82/EC of 24 June 2014 amending Directive 2007/59/EU of the European Parliament and of the Council of 23 October 2007 as regards general professional knowledge and medical licence requirements.”(f)

(3) In regulation 4(1), after the words “by a train driving licence issued by the Department” insert— “, Office of Rail and Road”.

(4) In Schedule 1 (Medical Requirements) in paragraph 1(2)(g) omit the words “: not required in a case where a person loses binocular vision after starting a job as a train driver when that person has adequate adaptation and sufficient compensation experience”.

(5) For Schedule 3 (General Professional Knowledge and Requirements Regarding the Train Driving Licence) substitute the Schedule set out in the Schedule to these Regulations.

(a) SI 1999/283
 (b) SI 1996/266
 (c) 1972 c.68
 (d) 1954 c.33 (N.I.)
 (e) SR 2010/132
 (f) O.J. No. L184, 25.6.2014, p 11.

(6) In Schedule 4 for paragraph 8, substitute –

“8. LANGUAGE TESTS

The language requirements are as follows—

(1) Drivers who have to communicate with the infrastructure manager on critical safety issues must have language skills in the language indicated by the infrastructure manager concerned. Their language skills must be such that they can communicate actively and effectively in routine, adverse and emergency situations.

(2) They must be able to use the messages and communication method specified in the Annex to Commission Decision 2012/757/EU concerning the technical specification for interoperability relating to the “operation and traffic management” subsystem of the rail system in the European Union and amending Decision 2007/756/EC(g).

(3) Drivers must be able to understand (both listening and reading) and to communicate (both speaking and writing) according to level B1 of the Common European Framework of Reference for Languages (CEFR) established by the Council of Europe(h).”

Transitional provisions

3. The holder of a train driving licence who has obtained or will have obtained a train driving licence before ** 2016 shall be considered to comply with requirements of the principal Regulations which are amended by these Regulations—

- (a) in relation to that licence until such date on or after ** 2016 when the holder of the licence is next required to take a periodic medical and psychological examination in accordance with the provisions of regulation 13; and
- (b) in relation to any train driving certificate which the licence holder holds until such date on or after ** 2016 when the licence holder is next required to take a periodic language test under regulation 15 of the principal Regulations.

Sealed with the Official Seal of the Department for Regional Development on ***2016

Tom Reid

A senior officer of the Department for Regional Development

(g) O.J No. L345, 15.12.2012, p.1. See in particular section 4.6.2 of the Annex to the Decision. There are amendments to this Decision but they are not relevant for the purposes of these Regulations.

(h) Common European Framework of Reference for Languages: Learning, Teaching, Assessment, 2001 (Cambridge University Press for the English version ISBN 0-521-00531-0). Also available on the Cedefop website: <http://europass.cedefop.europa.eu/en/resources/european-language-levels-cefr>

New Schedule to be substituted for Schedule 3 to the Train Driving Licences and Certificate Regulations (Northern Ireland) 2010

“SCHEDULE 3

Regulations 8 and 28

GENERAL PROFESSIONAL KNOWLEDGE AND REQUIREMENTS REGARDING THE LICENCE
(This Schedule substantially reproduces the provisions of Annex IV to the Directive)

The objective of the general training is to provide general competence on all aspects that are relevant to the train driver's profession. The general training will focus on basic knowledge and principles that are applicable independently of the type and nature of rolling stock or infrastructure. Requirements for training for specific rolling stock or infrastructure are specified in Schedules 4 and 5 of these regulations.

The subjects included in the general training are listed below in no particular order of priority.

1. In relation to a driver's work, the work environment, the driver's role and responsibility in the process of rail operation, the professional and personal demands of the driver's duties the driver must—

- (a) have acquired knowledge of the general thrust of legislation and rules applicable to rail operation and safety (requirements and procedures regarding the certification of train drivers, dangerous goods, environmental protection, fire protection, etc.);
- (b) understand the specific requirements and professional and personal demands (working mainly on one's own, shift work over 24 hour cycle, individual protection and security, reading and updating documents, etc.);
- (c) understand behaviours which are compatible with safety-critical responsibilities (medication, alcohol, drugs and other psychoactive substances, illness, stress, fatigue, etc.);
- (d) be able to identify the reference and operating documents (e.g. rule book, route book, driver's manual, etc.);
- (e) be able to identify the responsibilities and functions of persons involved;
- (f) understand the importance of being precise in carrying out duties and in working methods;
- (g) understand occupational health and safety (e.g. code of behaviour on and near tracks, code of behaviour for getting on and off the traction unit safely, ergonomics, staff safety rules, personal protective equipment, etc.);
- (h) have acquired knowledge of behavioural skills and principles (stress management, extreme situations, etc.); and
- (i) have acquired knowledge of the principles of environmental protection (sustainable driving, etc.).

2. In relation to railway technologies, including safety principles behind operational regulations the driver must—

- (a) have acquired knowledge of the principles, regulations and provisions regarding safety in rail operation; and
- (b) be able to identify the responsibilities and functions of persons involved.

3. In relation to the basic principles of railway infrastructure the driver must have acquired knowledge of —

- (a) systematic and structural principles and parameters;
- (b) the general characteristics of tracks, stations, marshalling yards;

- (c) railway structures (bridges, tunnels, points, etc.);
- (d) operating modes (single track, double track operation, etc.);
- (e) signalling and train control systems;
- (f) safety installations (hot-axle box detectors, smoke detectors in tunnels, etc.) and
- (g) traction power supply (catenary, third rail, etc.).

4. In relation to the basic principles of operational communication the train driver must—

- (a) have acquired knowledge of the significance of communication and the means and procedures for communicating;
- (b) be able to identify persons the driver needs to contact and their role and responsibility (staff of the infrastructure manager, working duties of other train staff, etc.);
- (c) be able to identify situations/causes that require communication to be initiated; and
- (d) understand communication methods.

5. In relation to trains, their composition and the technical requirements for traction units, wagons, coaches and other rolling stock the driver must—

- (a) have acquired knowledge of the generic types of traction (electric, diesel, steam, etc.);
- (b) be able to describe the layout of a vehicle (bogies, bodies, driving cab, protection systems, etc.);
- (c) have acquired knowledge of the content and systems of labelling;
- (d) have acquired knowledge of the documentation on train composition;
- (e) understand braking systems and performance calculation;
- (f) be able to identify train speed;
- (g) be able to identify maximum load and forces at the coupler; and
- (h) have acquired knowledge of the operation and purpose of the train management system.

6. In relation to hazards involved in railway operations in general the driver must—

- (a) understand the principles governing traffic safety;
- (b) have acquired knowledge of the risks related to railway operation and the various means to be used to mitigate them;
- (c) have acquired knowledge of safety-relevant incidents and understand the required behaviour/reaction; and
- (d) have acquired knowledge of the procedures applicable to accidents involving persons (e.g. evacuation).

7. In relation to the basic principles of physics the driver must—

- (a) understand forces at the wheel;
- (b) be able to identify factors influencing accelerating and braking performance (weather conditions, braking equipment, reduced adhesion, sanding, etc.); and
- (c) understand principles of electricity (circuits, measuring voltage, etc.).”

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Train Driving Licences and Certificates Regulations (Northern Ireland) 2010, (S.R. 2010 No. 132), (“the 2010 Regulations”) in order to implement Commission Directive 2014/82/EU of 24th June 2014 amending Directive 2007/59/EC of the European Parliament and of the Council as regards general professional knowledge and medical and licence requirements (O.J No. L184, 25.6.14, p.11).

The 2010 Regulations establish a regime for the licensing and certification of train drivers who drive trains on the mainline railway network. The licence is recognised by other European Member States and indicates satisfaction of medical checks and possession of general professional competence. The certificate indicates the infrastructure on which the holder is authorised to drive and the rolling stock which the holder is authorised to drive.

Regulation 2(3) amends regulation 4(1) 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.

Regulation 2(4) 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.

Regulation 2(5) replaces Schedule 3 to the 2010 Regulations on general professional knowledge with revised and more detailed provisions on the requirement for general professional knowledge.

Regulation 2(6) 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 ** 2016.

List of Consultees

Age NI
Bulrush Horticulture Ltd
Citizen's Advice Bureau
City, District and Borough Councils
Community Transport Association
Department for Transport London
Department of Transport Dublin
Downpatrick and County Down Railway Society
Disability Action
Equality Commission for NI
General Consumers Council
Giants Causeway & Bushmills Railway Company
Health & Safety Executive NI
Heritage Railway Association
Iarnród Eireann
IMTAC
Irish Rail Safety Commission
MENCAP
NI Human Rights Commission
Northern Ireland Railways
Office of Rail Regulation
Rail Industry Association UK
Rail Passengers Group
Rail Users Ireland
Railway Preservation Society of Ireland
Royal Association for Disability and Rehabilitation (RADAR)
Royal National Institute of the Blind (RNIB)
Royal National Institute for the Deaf (RNID)
Sunshine Peat & Railway Company
Transport & General Workers Union
Transport 2000
Northern Ireland Political Parties, Assembly and Westminster Representatives
Those bodies listed in Appendix 3 of the Department's Equality Scheme and identified as being suitable consultees