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STATUTORY INSTRUMENTS

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**2019 No. 677**

**The Train Driving Licences and Certificates  
(Amendment) (EU Exit) Regulations 2019**

**PART 2**

Amendment of subordinate legislation

**Amendment of the Train Driving Licences and Certificates Regulations 2010**

2.—(1) The Train Driving Licences and Certificates Regulations 2010<sup>M1</sup> are amended as follows.

(2) In regulation 2—

- (a) omit the definition of “the Agency”;
- (b) for the definition of “the Department for Regional Development” substitute—

““the Department for Infrastructure” means the Department renamed as such by the Departments Act (Northern Ireland) 2016<sup>M2</sup> and originally established as the Department for Regional Development by article 3(1) of the Departments (Northern Ireland) Order 1999<sup>M3</sup>”;
- (c) for the definition of “the Directive” substitute—

““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<sup>M4</sup> as amended from time to time, before and after [F1IP completion day];”;
- (d) after the definition of “employed” insert—

““European train driving licence” means a licence issued before [F2the end of the transitional period] by a safety authority in accordance with article 14 of the Directive indicating that the holder satisfies medical, educational and professional skills for train driving;”;
- (e) after the definition of “mainline railway” insert the following definitions—

““Northern Ireland train driving licence” means a licence issued by the Department for Infrastructure under the Northern Ireland Regulations indicating that the holder satisfies medical, educational and professional skills for train driving;

“the Northern Ireland Regulations” means the Train Driving Licences and Certificates Regulations (Northern Ireland) 2010<sup>M5</sup>”;
- (f) after the definition of “railway undertaking” insert—

““Recast Safety Directive” means Directive (EU) 2016/798 of the European Parliament and of the Council on railway safety (recast);”<sup>M6</sup>
- (g) for the definition of “safety authority”, substitute—

““safety authority” means an authority established in an EEA state, other than the Intergovernmental Commission, 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 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<sup>M7</sup> or article 16(1) of the Recast Safety Directive;”;

- (h) for the definition of “train driving certificate”, substitute—

““train driving certificate” means a certificate issued by a railway undertaking or infrastructure manager under these Regulations indicating the infrastructure on which the holder is authorised to drive and the types of train which the holder is authorised to drive;”;

- (i) for the definition of “train driving licence” substitute—

““train driving licence” means a licence issued by or on behalf of the ORR under these Regulations indicating that the holder satisfies medical, educational and professional skills requirements for train driving;”;

- (j) after that definition, insert—

““transitional period” means the period commencing on exit day and expiring at the end of two years.”.

- (3) In regulation 4—

- (a) for paragraph (1), substitute—

“(1) Subject to paragraph (12), a railway undertaking or infrastructure manager must not deploy a person to drive a train unless that person is authorised to do so—

- (a) by a train driving licence;
- (b) by a Northern Ireland train driving licence; or
- (c) during the transitional period only, by a European train driving licence.”;

- (b) for paragraph (4), substitute—

“(4) Subject to paragraphs (7) and (12) a person must not drive a train unless that person is authorised to do so by—

- (a) a train driving licence, a Northern Ireland train driving licence, or, during the transitional period only, a European train driving licence; and
- (b) a train driving certificate for the type of train driven and the infrastructure driven on, issued by the railway undertaking or infrastructure manager by whom that person is deployed to drive a train.”;

- (c) after paragraph (4), insert—

“(4A) For the purposes of paragraphs (5) (6) (8) (12) and (13) a train driving licence includes a Northern Ireland train driving licence and, during the transitional period only, a European train driving licence.”;

- (d) omit paragraph (9);

- (e) in paragraph (11), for “A train driving licence issued otherwise than by the ORR” substitute “A Northern Ireland train driving licence or, during the transitional period, a European train driving licence issued”

- (f) omit paragraph (14).

- (4) In regulation 5(1), substitute—

“(1) The form of a train driving licence and a train driving certificate issued under these Regulations must comply with the requirements set out in Schedule 2.”.

- (5) After regulation 9(1), insert—
- “(1A) In paragraph (1) a train driving licence includes a Northern Ireland train driving licence and, during the transitional period only, a European train driving licence.”.
- (6) After regulation 13(1), insert—
- “(1A) In paragraph (1) a train driving licence includes a Northern Ireland train driving licence and, during the transitional period only, a European train driving licence.”.
- (7) After regulation 17(5), insert—
- “(6) For the purposes of paragraphs (2) and (4) a train driving licence includes a Northern Ireland train driving licence and, during the transitional period only, a European train driving licence.”.
- (8) In regulation 18—
- (a) in paragraph (1), omit “issued by the ORR”;
- (b) in paragraph (3)—
- (i) omit “a safety authority,” and “the safety authority,” and,
- (ii) for “the Department for Regional Development”, in both places, substitute “ the Department for Infrastructure ”.
- (9) For regulation 19, substitute—

**“Suspension or withdrawal of other train driving licences and driver prohibition**

- 19.**—(1) Without prejudice to regulation 21, if the ORR considers that the holder of a Northern Ireland train driving licence no longer satisfies a condition required for the holding of it the ORR must—
- (a) inform the Department for Infrastructure of this view;
- (b) give the Department for Infrastructure a reasoned request for a review of the holder's eligibility to hold the licence, or for the licence to be suspended or withdrawn; and
- (c) notify the Intergovernmental Commission of the request.
- (2) Without prejudice to regulation 21, if, during the transitional period, the ORR considers that the holder of a European train driving licence no longer satisfies a condition required for the holding of it the ORR—
- (a) must—
- (i) inform the Department for Infrastructure and the Intergovernmental Commission, and
- (ii) notify the Department for Infrastructure and the Intergovernmental Commission about any request made under (b)(ii);
- (b) may—
- (i) inform the safety authority of this view,
- (ii) give the safety authority a reasoned request for a review of the holder's eligibility to hold the licence, or for the licence to be suspended or withdrawn, and
- (iii) notify the other safety authorities of the request.
- (3) Pending any suspension or withdrawal of the licence, or other conclusion on the request, the ORR may prohibit the holder from driving a train in Great Britain.”.
- (10) For regulation 20(5), substitute—

“(5) If the ORR exercises the power in paragraph (4) it must inform the Department for Infrastructure and the Intergovernmental Commission, and may inform the safety authorities.”.

(11) For regulation 21(3), substitute—

“(3) If the ORR takes any action under this regulation it must inform the Department for Infrastructure and the Intergovernmental Commission and may inform the safety authorities.”.

(12) Omit regulation 22.

(13) In regulation 23—

(a) in paragraph (3), for “paragraphs (4) and (5)” substitute “ paragraph (5) ”;

(b) omit paragraph (4).

(14) In regulation 24(1), omit the words “issued by it or on its behalf”

(15) For regulation 26, substitute—

**“Information relating to the status of licences**

**26.—**(1) The ORR must, upon request, provide information on the status of train driving licences to the Department for Infrastructure, the Intergovernmental Commission or any employer of train drivers.

(2) The ORR may provide the information mentioned in paragraph (1) to a safety authority.”.

(16) For regulation 27, substitute—

**“Information relating to certificates etc**

**27.—**(1) Railway undertakings and infrastructure managers must, upon request, provide to the ORR any information relating to train driving certificates issued by them or any other functions carried out by them under these Regulations.

(2) Railway undertakings and infrastructure managers may provide the information mentioned in paragraph (1) to a safety authority.”.

(17) For regulation 28, substitute—

**“Information relating to international train services**

**28.—**(1) Railway undertakings and infrastructure managers must upon request, provide to the ORR, the Department for Infrastructure and the Intergovernmental Commission information on the content of train driving certificates issued by them in relation to train drivers on international journeys.

(2) Railway undertakings and infrastructure managers may provide the information mentioned in paragraph (1) to a safety authority.”.

(18) In regulation 30—

(a) in paragraph (1), omit “, or a trainer accredited or recognised to act as a trainer in another Member State in accordance with the requirements of article 20 of the Directive”;

(b) after paragraph (1) insert—

“(1A) For the purposes of this regulation, during the transitional period, a recognised trainer includes a trainer accredited or recognised to act as a trainer in a member State in accordance with the requirements of article 20 of the Directive.”.

- (19) For regulation 31(3)(b), substitute—
- “(b) during the transitional period, an examiner accredited or recognised to act as an examiner in a member State in accordance with the requirements of article 20 of the Directive.”;
- (20) In regulation 39(1)(a), in both places, for “one other Member State”, substitute “one member State”.
- (21) In Schedule 2—
- (a) in the heading, omit the words “Community” and “Harmonised”;
- (b) in paragraph 2(a), omit the words “in English”;
- (c) in paragraph 2, omit sub-paragraphs (c), (e) and (f).
- [<sup>F3</sup>(22) In sub-paragraph 8 of Schedule 4—
- (a) in sub-paragraph (2), for the words from “Annex to Commission Decision” to “amending [Decision 2007/756/EC](#)” substitute “NTSN relating to the ‘operation and traffic management’ subsystem of the rail system”;
- (b) after sub-paragraph (3) insert—
- “(4) In this paragraph, “NTSN”, “subsystem” and “rail system” have the meanings set out in regulation 2(1) of the Railways (Interoperability) Regulations 2011.”.]

#### Textual Amendments

- F1** Words in reg. 2(2)(c) substituted (31.12.2020 immediately before IP completion day) by [The Railways \(Miscellaneous Amendments, Revocations and Transitional Provisions\) \(EU Exit\) Regulations 2020 \(S.I. 2020/786\)](#), regs. 1(2)(b)(i), **6(2)(a)**
- F2** Words in reg. 2(2)(d) substituted (31.12.2020 immediately before IP completion day) by [The Railways \(Miscellaneous Amendments, Revocations and Transitional Provisions\) \(EU Exit\) Regulations 2020 \(S.I. 2020/786\)](#), regs. 1(2)(b)(i), **6(2)(b)**
- F3** Reg. 2(22) inserted (31.12.2020 immediately before IP completion day) by [The Railways \(Interoperability\) \(Miscellaneous Amendments and Revocations\) \(EU Exit\) Regulations 2020 \(S.I. 2020/318\)](#), regs. 1(2)(b), **4(1)**

#### Commencement Information

- I1** Reg. 2 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)

#### Marginal Citations

- M1** [S.I. 2010/724](#), amended by [S.I. 2013/950](#), 2015/1798.
- M2** [2016 c.5 \(N.I.\)](#).
- M3** [S.I. 1999/283 \(N.I. 1\)](#).
- M4** O.J. No. L315, 3.12.2007, p.51, as amended by Commission Directive 2014/82/EU (O.J. No. L184, 25.6.2014, p.11) and Commission Directive (EU) 2016/882 (O.J. No. L146, 3.6.2016, p.22).
- M5** S.R. [2010 No. 132](#), amended by S.R. [2013 No. 126](#), S.R. [2016 No. 73](#).
- M6** O.J. No. L138, 26.5.2016, p.102.
- M7** O.J. No. L164, 30.4.2004, p 44 as amended by Directive 2008/57/EC of the European Parliament and of the Council on the interoperability of the rail system within the Community (Recast) (O.J. No. L191, 18.7.2008, p 1), Directive 2008/110/EC of the European Parliament and of the Council (O.J. No. L345, 23.12.2008, p 62), Commission Directive 2009/149/EC (O.J. No. L313, 28.11.2009, p 65), Directive 2012/34/EU of the European Parliament and of the Council establishing a single European

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**Changes to legislation:** *There are currently no known outstanding effects for the The Train Driving Licences and Certificates (Amendment) (EU Exit) Regulations 2019, PART 2. (See end of Document for details)*

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railway area (recast) (O.J. No. L343, 14.12.2012, p 32) and Commission Directive 2014/88/EU (O.J. No. L201, 10.7.2014, p 44).

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