
STATUTORY RULES OF NORTHERN IRELAND

2010 No. 132

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

PART 11

SUSPENSION AND WITHDRAWAL OF LICENCES AND CERTIFICATES

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a reasoned request for a review of the holder's eligibility to hold the licence, or for the licence to be suspended or withdrawn;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a reasoned request for a review of the driver's eligibility to hold the licence, or for the licence to be suspended or withdrawn; and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.

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.

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.