
STATUTORY INSTRUMENTS

2010 No. 724

The Train Driving Licences and Certificates Regulations 2010

PART 12

**APPEALS AGAINST DECISIONS OF RAILWAY
UNDERTAKINGS AND INFRASTRUCTURE MANAGERS**

Appeals against decisions of railway undertakings and infrastructure managers

36.—(1) A person concerned (“the appellant”) may appeal to the ORR against a decision of a railway undertaking or infrastructure manager referred to in paragraph (2).

- (2) The decisions of a railway undertaking or infrastructure manager referred to are decisions—
- (a) not to grant an application for—
 - (i) a train driving certificate, or
 - (ii) its update or renewal; or
 - (b) to suspend or withdraw a train driving certificate.

(3) A person is concerned if that person is the applicant in question or the holder of the train driving certificate in question.

(4) The ORR may, in such cases as it considers it appropriate to do so, having regard to the nature of the questions which appear to it to arise, direct that an appeal under this regulation will be determined on its behalf by a person appointed by it for that purpose.

(5) Before the determination of an appeal the ORR must ask the appellant, and the party against whose decision the appeal is brought, whether they wish to appear and be heard on the appeal and—

- (a) the appeal may be determined without a hearing of the parties if both of them express a wish not to appear and be heard;
- (b) the ORR must, if either of the parties expresses a wish to appear and be heard, afford to both of them an opportunity of doing so.

(6) The Tribunals and Inquiries Act 1992 applies to a hearing held by a person appointed in pursuance of paragraph (4) to determine an appeal as it applies to a statutory inquiry held by the Secretary of State, but as if in section 10(1) of that Act (statement of reasons for decisions) the reference to any decision taken by the Secretary of State included a reference to a decision taken on behalf of the ORR by that person.

^{F1}(7)

- (8) Without prejudice to the right of any person to make an application for judicial review—
- (a) a determination by the ORR, or by a person appointed to make a determination on the ORR's behalf, on an appeal brought under this regulation is binding on all parties affected by that determination;
 - (b) the ORR, or person so appointed, may give such directions as they consider appropriate to give effect to the determination; and

(c) it is the duty of any person to whom a direction is given under this regulation to comply with and give effect to that direction.

(9) The ORR may pay to any person appointed to hear or determine an appeal under this regulation such remuneration and allowances as the ORR may with the approval of the Treasury determine.

(10) A failure of a railway undertaking or infrastructure manager to make a decision on an application for a train driving certificate, or for its update or renewal, within one month of receiving all the necessary documents may be treated as a refusal of the application for the purpose of making an appeal under this regulation.

(11) Where under paragraph (5)(b) a party expresses a wish to appear and be heard, the Health and Safety Licensing Appeals (Hearing Procedure) Rules 1974, as respects England and Wales, and the Health and Safety Licensing Appeals (Hearing Procedure) (Scotland) Rules 1974, as respects Scotland, apply to any appeal under paragraph (1) as they apply to an appeal under section 44(1) of the 1974 Act (appeals), but with the modification that references to a licensing authority are to be read as references to the party against whose decision the appeal is brought.

Textual Amendments

F1 Reg. 36(7) omitted (19.9.2013) by virtue of [The Public Bodies \(Abolition of Administrative Justice and Tribunals Council\) Order 2013 \(S.I. 2013/2042\)](#), art. 1(2), **Sch. para. 83(b)**

Changes to legislation:

There are currently no known outstanding effects for the The Train Driving Licences and Certificates Regulations 2010, Section 36.