
STATUTORY INSTRUMENTS

2019 No. 677

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

PART 3

Amendment of retained direct EU legislation

Amendments to Commission Regulation (EU) No 36/2010

4.—(1) Commission Regulation (EU) No 36/2010 on Community models for train driving licences, complementary certificates, certified copies of complementary certificates and application forms for train driving licences under Directive 2007/59/EC of the European Parliament and the Council is amended as follows.

(2) For Article 1 substitute—

“Article 1

Model for train driving licences

The model as set out in Annex I to this Regulation must be used for train driving licences. This format must be used when a train driving licence is issued, renewed, updated or revoked.

The language used must be English.”.

(3) After Article 1 insert—

“Article 1A

Definitions

For the purposes of this Regulation:

- (a) “complementary certificate” means a train driving certificate issued under the Regulations or the NI Regulations;
- (b) “delegated body” means a person to whom functions have been delegated by the ORR under regulation 34 of the Regulations or by the Department under regulation 20 of the NI Regulations;
- (c) “Data Protection Legislation” means Regulation (EU) 2016/679 of the European Parliament and of the Council on the protection of natural persons with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46/EC (General Data Protection Regulation) and the Data Protection Act 2018^{M1};
- (d) “Department” means the Department for Infrastructure renamed as such by the Departments Act (Northern Ireland) 2016 and originally established as the Department for Regional Development by article 3(1) of the Departments (Northern Ireland) Order 1999;
- (e) “NI Regulations” means the Train Driving Licences and Certificates Regulations (Northern Ireland) 2010;

- (f) “ORR” means the Office of Rail and Road;
 - (g) “Regulations” means the Train Driving Licences and Certificates Regulations 2010;
 - (h) “train driving licence” means a train driving licence or a Northern Ireland train driving licence as both such terms are defined in the Regulations.”.
- (4) For Article 2 substitute—

“Article 2

Model for complementary certificates

The model as set out in Annex II to this Regulation must be used for complementary certificates. This format must be used when a complementary certificate is issued, renewed, updated, amended or revoked.

The language used must be English.”.

- (5) For Article 3 substitute—

“Article 3

Model for certified copies of complementary certificates

The model set out in Annex III to this Regulation must be used for certified copies of complementary certificates issued in accordance with regulation 16(4) of the Regulations or regulation 16(3) of the NI Regulations, as the case may be.”.

- (6) In Article 4—

- (a) omit “Community” each time it occurs;
- (b) in paragraph 1—
 - (i) for “application forms referred to in Article 14 of Directive [2007/59/EC](#)” substitute “applications referred to in regulation 10 of the Regulations or regulation 10 of the NI Regulations ”,
 - (ii) omit “national”;
- (c) for paragraph 4 substitute—

“4. The ORR and the Department may transfer the lay-out of the model of the application form into the procedures published by each of them under regulation 10 of the Regulations or regulation 10 of the NI Regulations.”.

- (7) After Article 5 omit the words from “This Regulation shall be binding” to the end of the sentence.

- (8) In the heading to Annex I omit “Community”.

- (9) In Annex I—

- (a) in Section 1 (physical characteristics of the train driving licence)—
 - (i) in the second paragraph, for “Member States may, for national use only,”, substitute “the ORR and the Department may ”,
 - (ii) in the fourth paragraph, omit “Community”;
- (b) in Section 2 (anti-forgery measures)—
 - (i) in the first sentence following point (b), for “competent authorities”, substitute “ORR and the Department ”,

- (ii) in the second sentence following point (b), for “Annex III(2)(j) to Directive [2004/94/EC](#)” substitute “regulations 5(1)(c) and 6(1)(b) of and paragraph 2(k) of Schedule 1 to the Railways and Other Guided Transport Systems (Safety) Regulations 2006 ^{M2} and regulation 4(1)(c) of and paragraph 2(k) of Schedule 1 to the Railways (Safety Management) Regulations (Northern Ireland) 2006 ^{M3}.”;
 - (c) in Section 3 (lay-out of the train driving licence)—
 - (i) omit the first and second paragraphs,
 - (ii) in the fourth paragraph—
 - (aa) in point (a), for “the language or languages of the Member States issuing the licence”, substitute “English”,
 - (bb) omit point (b),
 - (cc) for point (c), substitute—
 - “(c) the distinguishing sign of the United Kingdom, based on ISO 3166 alpha-2 code, being “UK”, printed in negative.”,
 - (dd) in point (d), at field 5 omit from “is based on the European Identification Number (EIN) as stated in Commission Regulation ([EC](#)) No 653/2007” to the end,
 - (ee) in point (d), at field 9, for “a competent authority”, substitute “the ORR or the Department, as the case may be.”,
 - (ff) in point (d), at field 9a.1, omit “, according to the classification in use in the Member State”,
 - (gg) in point (d), at field 9a.2 for “entries by the Member State which issues the licence, for necessary information according to national legislation”, substitute “additional information that may be considered necessary by the ORR or the Department, as the case may be.”,
 - (hh) in point (d), at field 9b, omit “harmonised community”,
 - (ii) in point (d), after field 9b, omit “In addition, the word ‘European Communities Model’ in the language” to end of Section 3;
 - (d) in Section 4 (status and numbering of the train driving licence)—
 - (i) in the first paragraph, for “competent authority or the delegated body”, substitute “ORR, the Department or a delegated body, (as the case may be)”,
 - (ii) in the fourth and fifth paragraphs, for “Article 14(1) of Directive [2007/59/EC](#)”, substitute “regulation 10 of the Regulations or regulation 10 of the NI Regulations, as the case may be”,
 - (iii) in the fifth paragraph, for “competent authority”, substitute “ORR or the Department, as the case may be”;
 - (e) omit Section 6.
- (10) In Annex II—
- (a) in the heading omit “Community”;
 - (b) in Section 1 (content)—
 - (i) in the first paragraph, omit “in accordance with Article 29 of Directive [2009/57/EC](#)”,
 - (ii) omit the second paragraph,
 - (iii) in the third paragraph—

- (aa) in the second indent for “Member States”, substitute “ This ”,
- (bb) in the third indent, for “Member States”, substitute “ This ” and for “that they recognise”, substitute “ recognised ”,
- (cc) in fifth indent, for the words “Article 15”, substitute “ regulation 11 of the Regulations or regulation 11 of the NI Regulations, as the case may be ”,
- (dd) in the sixth indent, for the words “Article 15 of Directive [2007/59/EC](#)”, substitute “ regulation 11 of the Regulations or regulation 11 of the NI Regulations, as the case may be ”,
- (iv) at point 1.3, in the last sentence, for “Annex V and VI to Directive [2007/59/EC](#)”, substitute “ Schedules 4 and 5 to the Regulations or Schedules 4 and 5 to the NI Regulations, as the case may be ”,
- (v) at point 1.4, omit “national”,
- (vi) at point 1.5, for “Annex VI to Directive [2007/59/EC](#)”, substitute “ Schedule 4 to the Regulations or Schedule 4 to the NI Regulations, as the case may be ”,
- (vii) at point 1.7, for “Annex V to Directive [2007/59/EC](#)” substitute “ Schedule 5 to the Regulations or Schedule 5 to the NI Regulations, as the case may be ”,
- (viii) at point 1.8, for “Annex VI points (1) to (7) to Directive [2007/59/EC](#)”, substitute “ paragraphs 1 to 7 of Schedule 4 to the Regulations or paragraphs 1 to 7 of Schedule 4 to the NI Regulations, as the case may be ”;
- (c) in Section 2 (physical characteristics of the complementary certificate)—
 - (i) in the first sentence, omit “Community”;
 - (ii) omit the final sentence;
- (d) in Section 3 (anti-forgery measures)—
 - (i) in the third paragraph, for “Article 18(1) of Directive [2007/59/EC](#)”, substitute “ regulation 17(1) of the Regulations or regulation 17(1) of the NI Regulations, as the case may be ”,
 - (ii) in the fourth paragraph, for “Article 15 of Directive [2007/59/EC](#)”, substitute “ regulation 11 of the Regulations or regulation 11 of the NI Regulations, as the case may be ”;
- (e) omit Section 4.
- (11) In the heading to Annex III, omit “Community”.
- (12) In Annex III—
 - (a) in Section 1 (certified copy of complementary certificate)—
 - (i) in the first paragraph, omit the second sentence,
 - (ii) in the second paragraph, for “Article 15 of Directive [2007/59/EC](#)”, substitute “ regulation 11 of the Regulations or regulation 11 of the NI Regulations, as the case may be ”;
 - (b) in Section 2 (physical characteristics of the certified copy of complementary certificate), in the first paragraph, omit “Community” and for “in accordance with Article 6(2) and 17 of Directive [2007/59/EC](#)”, substitute “ in accordance with regulation 16(4) of the Regulations or regulation 16(3) of the NI Regulations, as the case may be ”;
 - (c) omit Section 4.
- (13) In the heading to Annex IV, omit “Harmonised”.
- (14) In Annex IV—

- (a) in Section 1 (general remarks)—
 - (i) in the first paragraph, for “Competent authorities”, substitute “ The ORR and the Department, ” and omit “harmonised”,
 - (ii) in the second paragraph omit “harmonised”,
 - (iii) in point (a) of the second paragraph, omit “harmonised” and for “section 3”, substitute “ section 2 ”,
 - (iv) for point (b) of the second paragraph, substitute—
 - “(b) **A personal data protection statement.** The need to protect personal data must be reflected in the procedure for obtaining a licence. An example of a data protection statement is set out in section 3. The ORR or the Department, may adapt it to reflect the requirements of Data Protection Legislation.”,
 - (v) in point (c) of the second paragraph, in the final sentence, for “5” substitute “ 4 ”,
 - (vi) in point (d) of the second paragraph, for “and competent authorities” substitute “ , the ORR and the Department ”;
- (b) in Section 2 (application form)—
 - (i) omit “Harmonised” from the heading,
 - (ii) omit the EU flag symbol and the words “European model” below the symbol,
 - (iii) in the sub-heading under the main heading, for “in conformity with Directive [2007/59/EC](#) and applicable national legislation”, substitute “ under regulation 10 of the Regulations or regulation 10 of the NI Regulations ”,
 - (iv) in field 2.6 for “European Identification Number (EIN) of licence. EIN not required for first issue”, substitute “ Licence Number (not required for first issue) ”;
- (c) in Section 3 (examples of a data protection statement)—
 - (i) for the text in the heading to paragraph 3.1, substitute— “ Example may be amended in line with Data Protection Legislation ”,
 - (ii) in paragraph 3.1—
 - (aa) in the first sub-paragraph, for the first sentence, substitute—

“Any personal data, processed for the purpose of delivering train driving licences and to meet the requirement of the Regulations or the NI Regulations, must be processed in accordance with Data Protection Legislation.”,
 - (bb) in both places where the words are used, for “competent authority/delegated entity”, substitute “ the ORR, the Department or the delegated body ”,
 - (iii) in paragraph 3.2, for “Directive [2007/59/EC](#)”, substitute “ the Regulations or the NI Regulations ”;
- (d) in Section 4 (list of documents to be appended to the application form for a train driving licence), at point 1.2, for “(Directive [95/46/EC](#))” substitute “ (in accordance with Data Protection Legislation) ”;
- (e) in Section 5 (guidance on the application form)—
 - (i) for point (a), substitute—
 - “(a) This application form must be incorporated into the ORR's and the Department's procedures for requesting a licence. The application must be accompanied by specific documents demonstrating that the applicant

meets the requirements in regulation 8 of the Regulations or regulation 8 of the NI Regulations, as the case may be.”,

(ii) for point (b), substitute—

“(b) The numbering system in the application form must be used.”,

(iii) in point (d), omit “under the Directive”,

(iv) for point (e), substitute—

“(e) Additional information may be required by the ORR or the Department where it is necessary to check personal identities. Any such data must be recorded in fields 2.24-2.26.”,

(v) in the guidance on field 1.1, for “(National Safety Authorities, Railway Undertakings, or other contacting entities)”, substitute “ (the ORR, the Department, Railway Undertakings or other contacting entities) ”,

(vi) in the guidance on field 2.5, for “competent authority”, substitute “ ORR or the Department, as the case may be ”,

(vii) in the guidance on field 2.6, for “European Identification Number”, substitute “ Licence Number ” and for “EIN number”, substitute “ Licence number ”,

(viii) in the guidance on field 2.19, for “distinguishing sign (two characters) of the country (see Annex I section 3)” substitute “ UK ”,

(ix) in the guidance on field 2.20, for “shall be displayed (this information is optional under Directive 2007/59/EC)”, substitute “ (this information is optional) ”,

(x) in the guidance on field 2.21, for “competent authority”, substitute “ ORR or the Department ”,

(xi) in the guidance on field 2.22, omit “under Directive 2007/59/EC”,

(xii) in the guidance on field 2.23, in the second paragraph, for the first sentence, substitute—

“The specifications for the quality of portraits, set out in Appendix 11 to Section IV of the ICAO document 9303 ‘Machine Readable Travel Documents’ (ed. 2006) ^{M4} apply.”,

(xiii) for the guidance on fields 2.24, 2.25 and 2.26, for the text, substitute—

“(reserved for additional data)

These spaces are reserved for entries by ORR or the Department to enter any necessary information required under regulation 10 of the Regulations or regulation 10 of the NI Regulations, as the case may be. Personal identification numbers may be entered here.”,

(xiv) for the guidance on field 2.27, substitute for the text—

“The candidate/driver who is the applicant must provide a signed declaration, either on paper or in electronic form, that the information provided in the application is true. The declaration will be subject to section 33(1)(k) of the Health and Safety at Work etc. 1974 Act ^{M5}, read with regulation 38 of the Regulations, where the licence is being applied for under the Regulations or article 31(1)(k) of the Health and Safety at Work (Northern Ireland) Order 1978 ^{M6}, read with regulation 40 of the NI Regulations, where the licence is being applied for under those Regulations. The declaration may be adapted, if needed, to take account of any relevant law, including but not limited to laws regarding misrepresentation, falsification of documents, or fraud.”,

- (xv) in the guidance on field 2.29, for “Directive 1999/93/EC”, substitute “ Regulation (EU) No 910/2014 of the European Parliament and of the Council on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC ”,
- (xvi) in the guidance on field 2.30, for “Competent Authority”, substitute “ ORR or the Department ”,
- (xvii) in the guidance on field 2.31, for “the deadline laid down in Article 14(4) of Directive 2007/59/EC”, substitute “ one month from the date on which the ORR or the Department, as the case may be, receives all the necessary documents ”,
- (xviii) for paragraph 3 of the guidance (protection of personal data), substitute—

“3. Protection of personal data

3.1. The ORR or the Department, as the case may be, must ensure that the register required by regulation 24 of the Regulations or regulations 22 of the NI Regulations complies with Data Protection Legislation.

3.2. The data protection statement and authorisation to be signed by the applicant, set out in section 3 of this Annex, are only examples of possible arrangements. The ORR and the Department, as the case may be, may adapt the arrangements as needed to ensure compliance with Data Protection Legislation.”,

- (xix) in paragraph 4 of the guidance (section related to the supply of documents providing evidence)—
- (aa) for paragraph 4.1, substitute—

“**4.1.** To obtain a new licence check box 1 in section 4 (list of documents to be appended to the application form for a train driving licence) and provide the documents listed at points 1.1 to 1.6 of section 4.

[1.2] Provide authorisation for the ORR or the Department, as the case may be, to process your personal data in accordance with Data Protection Legislation.

[1.3] The education requirements are set out in regulation 8(2)(b) and (c) of the Regulations or 8(1)(b) and (c) of the NI Regulations as the case may be.

[1.4] The physical requirements are set out in regulation 8(2)(d) of the Regulations or regulation 8(1)(d) of the NI Regulations, as the case may be.

[1.5] The psychological requirements are set out in regulation 8(2)(e) of the Regulations or regulation 8(1)(e) of the NI Regulations, as the case may be.

[1.6] The general professional competence requirements are set out in regulation 8(2)(f) of the Regulations or regulation 8(1)(f) of the NI Regulations, as the case may be.”,

- (bb) in paragraph 4.5, in the second sub-paragraph, for “competent authorities”, substitute “ ORR or the Department ”, and omit the final sentence.

Changes to legislation: There are currently no known outstanding effects for the *The Train Driving Licences and Certificates (Amendment) (EU Exit) Regulations 2019, Section 4.* (See end of Document for details)

Commencement Information

- I1** Reg. 4 in force at 31.12.2020 on IP completion day (in accordance with [2020 c. 1, Sch. 5 para. 1\(1\)](#)), see [reg. 1\(2\)](#)
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Marginal Citations

- M1** [2018 c. 12](#).
- M2** [S.I. 2006/599](#), to which there are amendments not relevant to these Regulations.
- M3** [S.R. 2006 No. 237](#), to which there are amendments not relevant to these Regulations.
- M4** ISBN 92-9194-753-9.
- M5** [1974 c.37](#). There are amendments to section 33(1) but they are not relevant to these Regulations.
- M6** [S.I. 1978/1039 \(N.I. 9\)](#) to which there are amendments not relevant to these Regulations.

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There are currently no known outstanding effects for the The Train Driving Licences and Certificates (Amendment) (EU Exit) Regulations 2019, Section 4.