This Statutory Rule has been made in substituion of the SR of the same number and is being issued free of charge to all known recipients of that Statutory Rule.

STATUTORY RULES OF NORTHERN IRELAND

2010 No. 132

TRANSPORT

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

Made - - - - *30th March 2010*

Coming into operation *10th May 2010*

The Department for Regional Development(**1**) being a Department designated(**2**) for the purposes of section 2(2) of the European Communities Act 1972(**3**) in relation to measures relating to railways and railway transport, in exercise of the powers conferred by that section makes the following Regulations:

PART 1

GENERAL

Citation and commencement

1.—(1) These Regulations may be cited as the Train Driving Licences and Certificates Regulations (Northern Ireland) 2010.

(2) These Regulations come into operation on 10th May 2010 but will have effect in accordance with the transitional provisions in regulation 41.

Interpretation

2.—(1) In these Regulations—

"the 1978 Order" means the Health and Safety at Work (Northern Ireland) Order 1978(**4**);

(**1**) SI 1999/283.
(**2**) SI 1996/266.
(**3**) 1972 c. 68.
(**4**) SI 1978/1039 (N.I. 9).

"the Agency" means the European Railway Agency established by Regulation (EC) No 881/2004 of the European Parliament and of the Council establishing a European Railway Agency(**5**);

"the Department" means the Department for Regional Development;

"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(**6**);

"employed" means employed whether under a contract of employment or as an independent contractor, and related expressions must be construed accordingly;

"infrastructure manager" means a person who is required, by regulation 3 of the Railways (Safety Management) Regulations (Northern Ireland) 2006(**7**), to be the holder of a safety authorisation;

"railway undertaking" means a person who is required, to be the holder of a safety certificate;

"recognised doctor" means a registered medical practitioner whose name appears in a register of doctors that the Department has published, or caused to be published, under regulation 21(1)(a);

"recognised examiner" means a person whose name appears in a register of examiners that the Department has published, or caused to be published, under regulation 21(1)(d);

"recognised psychologist" means a person who holds the qualification of the British Psychological Society Certificate in Occupational Testing (Level A) and whose name appears in a register of psychologists that the Department has published, or caused to be published, under regulation 21(1)(b);

"recognised trainer" means a person whose name appears in a register of trainers that the Department has published, or caused to be published, under regulation 21(1)(c);

"safety authority" means an authority established in an EEA State, other than in the United Kingdom, 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 Council 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(**8**);

"safety management system", in relation to a railway undertaking or an infrastructure manager, means the organisation and arrangements established by it, under regulation 4 of the Railway (Safety Management) Regulations (Northern Ireland) 2006, to ensure the safe management of its operation;

"train" includes a locomotive, a shunting locomotive, a work train and a maintenance railway vehicle;

"train driving certificate" means a certificate, required by article 4(1)(b) of the Directive, indicating the rolling stock which the holder is authorised to drive and the infrastructure on which the holder is authorised to drive it;

"train driving licence" means a licence, required by article 4(1)(a) of the Directive, indicating the holder satisfies medical, educational and professional skills requirements for train driving.

(2) Subject to paragraph (1) words and expressions used in these Regulations have the same meaning as in the Directive.

(**5**) Corrected version in O.J. No. L220, 21.6.2004, p. 3.
(**6**) O.J. No. L315, 3.12.2007, p. 51.
(**7**) SR 2006/237.
(**8**) O.J. No. L164, 30.4.2004, p. 44.

(3) The Interpretation Act (Northern Ireland) 1954(**9**) shall apply to these Regulations as it applies to an Act of the Northern Ireland Assembly.

Application and extent

3. These Regulations apply in relation to the driving of trains on the Northern Ireland railway network.

PART 2

LICENSING AND CERTIFICATION OF TRAIN DRIVERS

Requirement for licences and certificates

4.—(1) Subject to paragraph (10) a railway undertaking must not cause or permit a person to drive a train unless that person is authorised to do so by a train driving licence issued by the Department or a safety authority.

(2) Subject to paragraph (6) and (10), a railway undertaking must not cause or permit any person to drive a particular category of train, or to drive a train on particular infrastructure, unless that person is authorised to do so by a train driving certificate issued by it.

(3) Subject to paragraphs (6) and (10), a person may not drive a train unless that person is authorised to do so by—

(a) a train driving licence, and

(b) a train driving certificate for the category of train driven and the infrastructure used.

(4) Subject to paragraph (10), a person who drives a train must have their train driving licence and their train driving certificate with them whilst driving it or otherwise be able on board the train to satisfy the Department or their inspector duly appointed under regulation 40, that they are so authorised to drive the train by the required train driving licence and train driving certificate.

(5) Subject to paragraph (10), a railway undertaking must take reasonable steps to ensure that a person they cause or permit to drive a train has their train driving licence and their train driving certificate with them whilst driving it, or are otherwise able to satisfy the requirements of paragraph (4)

(6) Subject to paragraph (7) and if a railway undertaking so decides a train driver it causes or permits to drive a train on specific infrastructure need not be authorised by their train driving certificate to drive it on that infrastructure in the following cases—

(a) where a disturbance to railway services has occurred which requires the re-routing of the train or the maintenance of tracks, as specified by the infrastructure manager concerned;

(b) an exceptional one-off service which uses a historical train;

(c) an exceptional one-off freight service provided that the infrastructure manager concerned has agreed;

(d) the delivery of, or demonstration of, a new train; or

(e) to enable the training or the examination of the train driver.

(7) Paragraph (6) does not apply unless—

(**9**) 1954 c. 33 (N.I.).

(a) subject to regulation 41(9), another train driver, who holds a train driving licence and a train driving certificate relating to the specific infrastructure, accompanies and supervises the driver in the cab whilst the train is driven on that infrastructure; and

(b) the infrastructure manager of the specific infrastructure is given prior notice.

(8) An infrastructure manager may not oblige a railway undertaking to make a decision under paragraph (6).

(9) A train driving licence issued by a safety authority on the basis of an exemption from the medical requirements set out in Schedule 1 is not valid in Northern Ireland.

(10) Subject to regulation 41(10), a person who is training to be a train driver may drive a train without being authorised to do so by a train driving licence or a train driving certificate provided that a train driver, who is authorised by a train driving certificate relating to the category of train driven and the infrastructure used, accompanies and supervises that person in the cab whilst that person drives the train.

Licence and certificate characteristics

5.—(1) The form of a train driving licence issued by the Department and a train driving certificate, issued by a railway undertaking under these Regulations must comply with the requirements set out in Schedule 2.

(2) In particular, a train driving certificate must show the categories within which the train driver may drive comprising either or both of—

(a) Category A — shunting locomotives, work trains, maintenance railway vehicles and all other locomotives when they are used for shunting; and

(b) Category B — carriage of passengers or goods or both.

Ownership of train driving licence

6. A train driving licence is owned by the person named in it as the holder.

Ownership of the train driving certificate

7. A train driving certificate is owned by the railway undertaking which issued it to the holder.

PART 3

CONDITIONS FOR OBTAINING LICENCES AND CERTIFICATES

Conditions for obtaining a train driving licence

8.—(1) The Department must issue a train driving licence to an applicant if it is satisfied the applicant has—

(a) attained the age of 20 years;

(b) completed nine years education (primary and secondary);

(c) successfully completed basic training equivalent to at least level 3 referred to in Council Decision 85/368/EEC on the comparability of vocational training qualifications between the Member States of the European Community(**10**);

(d) passed the required medical examination;

(**10**) O.J. No. L199, 31.7.1985, p. 56.

(e) passed the required occupational psychological fitness examination; and

(f) passed the required general professional competence examination.

(2) For the purpose of paragraph (1)(d) the required medical examination means a medical examination that covers the criteria set out in paragraph 1 of Schedule 1, includes the minimum content set out in paragraph 2(1) of Schedule 1 and is conducted by or under the supervision of a recognised doctor.

(3) For the purpose of paragraph (1)(e) the required occupational psychological fitness examination means an examination that comprises the minimum content set out in paragraph 2(2) of Schedule 1 and is conducted by or under the supervision of a recognised psychologist or recognised doctor.

(4) For the purpose of paragraph (1)(f) the required general professional competence examination means an examination that covers the objectives and requirements set out in Schedule 3.

Conditions for obtaining a train driving certificate

9.—(1) A railway undertaking must issue a train driving certificate to an applicant if it is satisfied the applicant—

(a) is employed by it to be train driver;

(b) possesses the required language skills;

(c) has passed the required specific professional knowledge examinations; and

(d) has been trained by it in relation to its safety management system.

(2) For the purpose of paragraph (1)(b)—

(a) the required language skills means knowledge of the language relevant to the infrastructure to which the certificate is to relate that meets the language test requirements set out and referred to in paragraph 8 of Schedule 4; and

(b) to test this a railway undertaking may include a language component in the examinations referred to in paragraph (1)(c).

(3) For the purpose of paragraph (1)(c)—

(a) the required specific professional knowledge examinations means examinations of professional knowledge and competence relating to the rolling stock and to the infrastructure for which the certificate is sought (including route knowledge and operating rules and procedures) and covers the subjects set out in paragraphs 1 to 7 of Schedule 4 and in Schedule 5; and

(b) those examinations must comprise both theoretical and practical assessment including assessment of the driving ability of the applicant during driving tests on the infrastructure.

(4) For the purpose of paragraph (3)(b) simulators may be used for examining the application of operational rules and driver performance in particularly difficult situations.

(5) When determining whether to issue a train driving certificate a railway undertaking must take account of any document presented to it by the applicant that the applicant has obtained by virtue of regulation 16(3).