

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT

Twenty-third Delegated Legislation Committee

DRAFT RAILWAY (LICENSING OF RAILWAY  
UNDERTAKINGS) (AMENDMENT ETC.) (EU EXIT)  
REGULATIONS 2019

DRAFT TRAIN DRIVING LICENCES AND  
CERTIFICATES (AMENDMENT) (EU EXIT)  
REGULATIONS 2019

*Tuesday 19 March 2019*

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**Saturday 23 March 2019**

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**The Committee consisted of the following Members:**

*Chair:* STEWART HOSIE

† Clarke, Mr Simon (*Middlesbrough South and East Cleveland*) (Con)  
 † Cowan, Ronnie (*Inverclyde*) (SNP)  
 † Dhesi, Mr Tanmanjeet Singh (*Slough*) (Lab)  
 † Docherty, Leo (*Aldershot*) (Con)  
 † Donelan, Michelle (*Chippenham*) (Con)  
 Eagle, Maria (*Garston and Halewood*) (Lab)  
 † Ford, Vicky (*Chelmsford*) (Con)  
 † Foxcroft, Vicky (*Lewisham, Deptford*) (Lab)  
 † Heapey, James (*Wells*) (Con)  
 † Jones, Andrew (*Parliamentary Under-Secretary of State for Transport*)

† Mann, John (*Bassetlaw*) (Lab)  
 † Maskell, Rachael (*York Central*) (Lab/Co-op)  
 † Mercer, Johnny (*Plymouth, Moor View*) (Con)  
 † Morris, James (*Halesowen and Rowley Regis*) (Con)  
 † Pearce, Teresa (*Erith and Thamesmead*) (Lab)  
 † Perkins, Toby (*Chesterfield*) (Lab)  
 † Tredinnick, David (*Bosworth*) (Con)

Hannah Wentworth, Laura-Jane Tiley, *Committee Clerks*

† **attended the Committee**

## Twenty-third Delegated Legislation Committee

Tuesday 19 March 2019

[STEWART HOSIE *in the Chair*]

### Draft Railway (Licensing of Railway Undertakings) (Amendment etc.) (EU Exit) Regulations 2019

8.55 am

**The Parliamentary Under-Secretary of State for Transport (Andrew Jones):** I beg to move,

That the Committee has considered the draft Railway (Licensing of Railway Undertakings) (Amendment etc.) (EU Exit) Regulations 2019.

**The Chair:** With this it will be convenient to discuss the draft Train Driving Licences and Certificates (Amendment) (EU Exit) Regulations 2019.

**Andrew Jones:** It is always a pleasure to serve under your chairmanship, Mr Hosie. The regulations will be needed in the event of no deal. They are being made under the powers conferred by the European Union (Withdrawal) Act 2018 to fix deficiencies in two sets of domestic railway regulations, alongside EU implementing legislation. Those regulations are the Train Driving Licences and Certificates Regulations 2010 and the Railway (Licensing of Railway Undertakings) Regulations 2005.

It may be helpful if I provide a little background. As part of measures aimed at liberalising rail markets, the EU introduced standard documentation for train driving licences for train drivers and rail operator licences. Those documents are valid across the European economic area. The Office of Rail and Road is responsible for issuing train driving and operator licences in Great Britain. Subject to meeting certain criteria, such as medical and competence requirements, the ORR will issue a train driving licence valid for up to 10 years. Train drivers also need a certificate, issued by the operator, confirming that the driver is competent to drive a certain type of train on the infrastructure. Operator licences are issued subject to the operator meeting certain conditions, including financial fitness and having the necessary insurance cover.

The draft regulations have been developed in close co-operation with the regulator—the ORR—Network Rail, the devolved Administrations and the wider rail industry. Officials in my Department have consulted the industry, including by holding a number of workshops, and they continue regularly to meet train operators and their representatives to give them clarity on the technical amendments being made by these regulations. The industry will welcome the certainty that the regulations provide; they are an important part of their own no-deal planning.

Let me turn to what the regulations specifically do. The regulations will ensure that the train driving legislation continues to function after exit. The draft Train Driving Licences and Certificates (Amendment) (EU Exit)

Regulations 2019 amend our domestic regulations and three pieces of EU implementing legislation by making a number of technical changes. The draft regulations remove requirements on reporting to the Commission, references to member states, and functions reserved for the EU Commission and the European Union Agency for Railways. The regulations also amend the definition of a train driving licence so that it refers only to ORR-issued train driving licences. In addition, changes are needed to ensure that licences issued in Northern Ireland are valid for use in Great Britain, and to make corrections to the EU implementing legislation that applies to both GB and NI.

The draft Railway (Licensing of Railway Undertakings) (Amendment etc.) (EU Exit) Regulations 2019 make similar corrections by removing references to member states and replacing references to EU legislation with references to domestic legislation. The most significant amendment is to rename the European licence a “railway undertaking licence”. I realise that not everyone will class that as significant, but it is the most significant part of this regulatory change.

The draft regulations also revoke EU implementing regulation 2015/171. The EU template introduced by that regulation will no longer be required when we leave the EU, as the ORR has included the administrative requirements in its own licensing procedures.

Both sets of draft regulations also make transitional provisions that recognise existing European documentation, issued in other member states, for a maximum of two years after exit day or until it expires, whichever is sooner. In short, existing train drivers and operators providing services in Great Britain will not have to take any immediate action if the UK leaves the EU without a deal, regardless of where their documents were issued. The two-year recognition of licences also supports the smooth continuation of cross-border services, such as Eurostar, by ensuring that EU-licensed train drivers engaged in cross-border services will continue to be able to operate in the UK. In Northern Ireland, the role of issuing these licences falls to the Department for Infrastructure. A separate instrument is being taken forward on behalf of Northern Ireland, and the House will have the opportunity to debate that legislation.

The draft regulations are an important part of our no-deal preparations, because they provide clarity for business and certainty for drivers. They ensure that if the UK leaves the EU without a deal, this is done in an orderly and effective manner.

9 am

**Rachael Maskell (York Central) (Lab/Co-op):** It is a pleasure to serve under you in the Chair, Mr Hosie. I start by referring to the draft Railway (Licensing of Railway Undertakings) (Amendment etc.) (EU Exit) Regulations 2019. They seek to address deficiencies in the 2005 regulations, which were established for the licensing of passenger and freight train operators in Great Britain, by establishing the Office of Road and Rail as the licensing authority, allowing it to charge for applications for licences, and giving it powers to suspend and revoke licences. In addition, European licence holders, who will in future be known to hold a “railway undertaking licence”, will need to obtain a statement of national regulatory provision from ORR.

Clearly, the Labour party takes a very different approach to how rail operations should work. We believe, as does the industry, that track and train must be integrated. Has the Minister considered that issue? If so, will the licence be granted for both? The Government are currently undertaking a root and branch review of the railways—the Williams review. Should its conclusions recommend that rail should operate under one public body, would there still be a requirement for these regulations or would some major changes be required? If the UK Government were to be established as such an operator in the UK, could they be granted a European licence, subject to approval from the ORR, should they meet the required conditions of

“professional competence, financial fitness and insurance cover”?

In the light of the continuing proceedings on exiting the EU—clearly we do not know where that debate will end up—how will the fourth railway package affect these regulations, should it come to fruition before, and if, we exit the EU? I note that they will currently impact on just one operator, namely the freight operator Europorte Channel SAS. I further note that after a period of two years, the licence will no longer hold effect should bilateral agreement on a deal with the EU not be reached. What would happen if it takes longer than two years to establish a deal with the EU? Is it not foolish to put a time limit on the process? What recognition will the railway undertaking licence have beyond the two-year period? In the light of the Northern Ireland Assembly still not sitting, could the Minister set out what will happen in Northern Ireland? Rail operations will cross a border on the island of Ireland.

I turn now to the second set of regulations, the draft Train Driving Licences and Certificates (Amendment) (EU Exit) Regulations 2019. The 2010 regulations of the same name came out of EU directive 2007/59/EC and established a common licensing and certification process for train drivers, and thus enable greater freedom of movement of drivers across EU countries. A common register is held by the Office of Road and Rail or the Department of Infrastructure in Northern Ireland, and there is common certification of drivers and inter-state recognition of training centres and examiners. The certification proves that a driver has achieved a level of competency and meets the medical standards required. The licence itself highlights the type of train that a driver is authorised to drive. Since 2007, there have been two pieces of secondary legislation related to the issuing of licences, and in 2015 a language test was also applied.

The regulations seek to ensure that data on train drivers receiving certification is held appropriately, and that the training element of the certification of train drivers is in order, including the content, the examination, the training centre, and the examiners themselves. I was interested to learn that the examiner may not hold a certificate for certain new rolling stock on which they are assessing a driver; could the Minister clarify whether that is the case? Safety is of the upmost importance on our railways, and our drivers undertake a tremendous job ensuring that safety is maintained, as I witnessed a few weeks ago when I took a cab ride. We want to ensure that those examining the drivers are suitably qualified.

Should the UK leave the EU, it will recognise EU licenses and certificates for two years after the date of exit. However, I again ask what will happen if the

negotiations continue beyond a two-year period: will these regulations still be recognised, or will we be back here, debating this again? There are so many unknowns at the moment, in the light of the shambolic process in Parliament of leaving the EU—if, indeed, we leave at all. I therefore take it that these regulations could be held in abeyance for some time, and that we may need to revisit them if further changes occur across the railway network.

9.6 am

**Andrew Jones:** The hon. Member for York Central asked a number of questions. First, these regulations are being made in the event of no deal, so there is obviously an element of contingency. She asked whether they preclude further changes or whether we will have to revisit them. The regulations address the situation as it currently stands; they are about ensuring the smooth, continued operation of our rail network, including cross-border rail. The question about Northern Ireland will be dealt with by a separate statutory instrument.

The hon. Lady also asked whether these regulations will have an impact on anything that may come out of the Williams review. We do not know what that will be; I am obviously aware of the Labour party position, which is to renationalise the railways.

**Hon. Members:** Hear, hear!

**James Heapey (Wells) (Con):** There is enthusiasm for that one!

**Andrew Jones:** Our country has had several decades of that, and it led to significant decline. That is not an area on which we are seeking agreement today.

**John Mann (Bassetlaw) (Lab):** Can the Minister confirm that once we have left the European Union, renationalisation of the railways is a policy option that will be easy to deliver, unlike under EU public procurement rules? Will he confirm that if parliamentarians should choose to renationalise the railways—I would certainly vote in favour—that can be done once we have left the European Union?

**The Chair:** I call on the Minister to answer that briefly, because it is outwith the scope of these orders.

**Andrew Jones:** You are being quite tolerant, Mr Hosie. The hon. Member for Bassetlaw is correct to say that various opportunities will arise after we have left—I think we should be saying when, rather than if, we leave—the EU. It is fair to say that it would be easier to renationalise the railways when we have left, but the hon. Gentleman needs to reflect on his use of the word “easy”, because it would not be easy, and despite the last Labour manifesto saying that it would be free, there would be a giant cost to it. Renationalisation of the railways is not a matter for today, but these regulations would not impact on it, if a potential future, mistaken Government chose to make that mistake.

Regarding preparation, the key thing is that not many people will be affected by the two-year implementation period, during which we would seek to

[*Andrew Jones*]

ensure that anyone with a train driving licence issued in the EEA had it relocated and issued here. The same goes for a rail operator. It may help the Committee if I highlight that on the rail operating side, we think just one operator is affected. It is a small freight operator in Norfolk that is not currently operational, and the regulator is already working with it to sort out the amendment to its licence.

Between 1% and 1.25% of train drivers in the UK have their licence issued in the EEA. To quantify that, it is about 250 people. Work between the operator and the regulator to correct the situation has been under way for about four or five months. We are not anticipating any problems whatever. It seems that two years is reasonable, considering that we are already well under way and the industry has welcomed the work in all our consultations.

**Rachael Maskell:** Can the Minister confirm that when the new regulator comes into force, the licence will have a simple transition and there will be no re-examination of train drivers?

**Andrew Jones:** It will, indeed, be a very simple matter. Our work is welcomed by the industry, as it brings clarity. We have taken a very pragmatic approach. It is

not a question of seeking to cause problems; it is about ensuring that we have a regulatory framework for the smooth operation of our railways. Not precluding any future changes or packages, it is about now and having regulations in place should we leave without a deal. The industry has welcomed the proposed legislation, and that is the point I want to make. Only a very few people are involved.

The changes will make our rail sector regime more effective and provide certainty to train drivers and rail businesses. They will ensure a seamless transition of the existing licensing regime on exit day—not if there is an exit day. They will maintain the status quo and provide clarity, so I commend the statutory instruments to the Committee.

*Question put and agreed to.*

#### **DRAFT TRAIN DRIVING LICENCES AND CERTIFICATES (AMENDMENT) (EU EXIT) REGULATIONS 2019**

*Resolved,*

That the Committee has considered the draft Train Driving Licences and Certificates (Amendment) (EU Exit) Regulations 2019.—(*Andrew Jones.*)

9.13 am

*Committee rose.*



