

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Third Delegated Legislation Committee

DRAFT TRAIN DRIVING LICENCES AND CERTIFICATES (AMENDMENT) REGULATIONS 2022

Tuesday 18 January 2022

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor’s Room, House of Commons,

not later than

Saturday 22 January 2022

© Parliamentary Copyright House of Commons 2022

This publication may be reproduced under the terms of the Open Parliament licence, which is published at www.parliament.uk/site-information/copyright/.

The Committee consisted of the following Members:

Chair: †GRAHAM STRINGER

- | | |
|---|---|
| † Bailey, Shaun (<i>West Bromwich West</i>) (Con) | † Morton, Wendy (<i>Parliamentary Under-Secretary of State for Transport</i>) |
| † Benton, Scott (<i>Blackpool South</i>) (Con) | † Richards, Nicola (<i>West Bromwich East</i>) (Con) |
| † Buchan, Felicity (<i>Kensington</i>) (Con) | † Solloway, Amanda (<i>Lord Commissioner of Her Majesty's Treasury</i>) |
| Champion, Sarah (<i>Rotherham</i>) (Lab) | † Thewliss, Alison (<i>Glasgow Central</i>) (SNP) |
| Coyle, Neil (<i>Bermondsey and Old Southwark</i>) (Lab) | † Twist, Liz (<i>Blaydon</i>) (Lab) |
| † Dhesi, Mr Tanmanjeet Singh (<i>Slough</i>) (Lab) | † Warburton, David (<i>Somerton and Frome</i>) (Con) |
| † Eastwood, Mark (<i>Dewsbury</i>) (Con) | Katya Cassidy, Naimh McEvoy, <i>Committee Clerks</i> |
| † Foy, Mary Kelly (<i>City of Durham</i>) (Lab) | † attended the Committee |
| Huq, Dr Rupa (<i>Ealing Central and Acton</i>) (Lab) | |
| † Loder, Chris (<i>West Dorset</i>) (Con) | |
| † Merriman, Huw (<i>Bexhill and Battle</i>) (Con) | |

Third Delegated Legislation Committee

Tuesday 18 January 2022

[GRAHAM STRINGER *in the Chair*]

Draft Train Driving Licences and Certificates (Amendment) Regulations 2022

The Chair: Before we begin, may I remind Members that they are expected to wear masks and to maintain distancing as far as possible? This is in line with current Government guidance and that of the House of Commons Commission. I also remind Members that they are asked by the House to have a lateral flow test twice a week if coming on to the estate. That can be done at the testing centre in the House or at home. If Members have speaking notes, please send them to Hansardnotes@parliament.uk.

9.25 am

The Parliamentary Under-Secretary of State for Transport (Wendy Morton): I beg to move,

That the Committee has considered the draft Train Driving Licences and Certificates (Amendment) Regulations 2022.

It is pleasure to serve under your chairmanship, Mr Stringer.

The regulations we are considering today will support the continued smooth operation of essential channel tunnel traffic and provide long-term certainty, clarity and confidence to cross-border operators, both current and prospective, regarding the future train driver licensing framework for the channel tunnel. They will make the necessary amendments to domestic train driver licensing legislation to enable the implementation of a bilateral agreement that has been signed by the UK and French Governments on the mutual recognition of British and European train driving licences in the channel tunnel zone.

The regulations amend the Train Driving Licences and Certificates Regulations 2010, which set out the licensing and certification requirements for train drivers operating on the mainline rail system in Great Britain. The 2010 regulations transposed into domestic law an EU Directive on the certification of train drivers operating locomotives and trains on the railway system in member states of the European Union—directive 2007/59/EC of the European Parliament and of the EU Council.

As part of the preparations for the UK leaving the EU, the 2010 regulations were amended by statutory instruments in 2019 and 2020. The 2019 regulations corrected inoperabilities arising from the UK's departure from the EU and established a "Transitional Period," enabling the continued recognition of European train driving licences in Great Britain for a period of two years from exit day. The 2020 regulations made further amendments to the 2010 regulations by extending the recognition provisions, so that European train driving licences issued up to 31 January 2022 would also be valid until that date.

Following the end of the transitional period on 31 January 2022, the recognition of European train driving licences in Great Britain will end. The regulations we are considering will provide for the continued recognition of European train driving licences in the UK half of the channel tunnel and cross-border area when the transitional period expires. That will support the recognition of European and British train driving licences in the channel tunnel zone on a fully reciprocal basis under the related UK-France bilateral agreement. The regulations will therefore have a significant positive impact on cross-border operators and drivers by providing long-term certainty on the train driver licensing requirements for the channel tunnel zone, which on the UK side is up to Ashford International station for passenger services and Dollands Moor station for freight services. On the French side, it is up to Calais-Frethun for passenger trains, and Frethun freight yard for freight services.

The arrangements will also considerably reduce the administrative burdens on operators and the drivers they employ by enabling British and French drivers to operate within the channel tunnel zone without the need to hold two separate licences—one issued in the UK and one in the European economic area.

The regulations, and by extension the agreement that they will implement, are fully compatible with the Government's fundamental red lines in the channel tunnel negotiations with France, which are to support the continuation of cross-border services, while conferring no role for the EU courts or the European Rail Agency in UK territory and avoiding dynamic alignment with EU law.

Information-sharing provisions are included in the regulations to give effect to requirements of the bilateral agreement. Under those requirements, the Office of Rail and Road will have powers to share information with the equivalent French authorities, for example, in relation to any concerns regarding the validity of a licence or compliance with licensing requirements on the part of either a holder of a European train driving licence operating in the channel tunnel zone in Great Britain, or a holder of a British train driving licence operating in the channel tunnel zone in France. The bilateral agreement will impose equivalent obligations on the French licensing authority, the EPSF, enabling information to be shared on a reciprocal basis.

The new regulations will also maintain the requirement for train drivers to hold a complementary certificate alongside their licence. Those certificates are issued by operators and confirm a train driver's competence and knowledge of the route, rolling stock and infrastructure on which they are operating. Again, the agreement will mean British and French train drivers will be able to use one complementary certificate to drive throughout the entire channel tunnel zone, as opposed to needing complementary certificates issued in both Britain and France. To that end, the regulations amend the scope of recognition of complementary certificates issued under the 2010 regulations to include the area up to Calais-Frethun in France.

In summary, the regulations will reduce administrative burdens on cross-border operators and enable them to plan their businesses into the future with confidence. Most importantly, they will support the long-term continued smooth operation of cross-border services through the

channel tunnel, which, as I am sure hon. Members will agree, bring significant economic and social benefits to the UK. I commend the regulations to the Committee.

9.31 am

Mr Tanmanjeet Singh Dhese (Slough) (Lab): It is a pleasure to serve under your chairmanship once again, Mr Stringer.

The last time I responded on behalf of the Opposition in a statutory instrument debate on the important matter of Brexit implications for our rail network I urged the Government to be ambitious in their view of our track connection to Europe. I urged them to support Eurostar services when covid-19 threatened their existence and to provide clarity on the important intricacies of rail services that run between here and mainland Europe. Sadly, neither was provided by the Government, so I am pleased to note that the regulations before us provide greater clarity on future train driving licences as the transition period relating to them comes to an end.

I think that we can all agree that as we legislate to implement the various consequences of leaving the European Union, safety regulations should be of the utmost importance. That is vital to ensuring the safety of passengers, protecting the highly skilled work of drivers and continuing the smooth running of our cross-border link. By doing so, we will guarantee that, as our network merges with those of our European neighbours, proper regulation and legal requirements are met.

I hope that the new agreements reached will provide some clarity about the future framework of train driving licences for operators and drivers alike. The regulations will ensure that European train driving licences will not cease to be valid in the channel tunnel border area from 31 January 2022 and that British-held licences will be recognised up to Frethun freight and the passenger tunnels in Calais.

As the Minister said, the initial regulations provided a two-year recognition period, which will last until 31 January 2022, so the urgency of the matter is absolutely clear. However, I have some concerns that I would like the Minister to address. The SI stipulates that the ORR will continue not only to recognise the European train driving licences within the channel tunnel zone, but will ensure the issuing of British train driving licences. Can the Minister say whether that arrangement will continue when Great British Railways comes into operation? Will the body that will manage that entity have sufficient capacity to ensure that those processes continue? Although the Shapps-Williams plan for rail notes that the

“ORR’s existing role as safety regulator will continue”

some responsibilities will be taken on by Great British Railways. Considering that that new organisation will be operable by 2023, I know that operators and drivers would appreciate some clarity on the matter. Sadly, the proposed £2 billion cut to rail services does not fill me with confidence about that.

Much of the SI seems to rely on communication and information-sharing with our French counterparts, to ensure that safety and other related standards are met on our network. I hope that the Minister can assure me that measures are in place to ensure full co-operation on both sides. Can the Minister confirm that France is on track to sign the agreement? If not, what would be the

impact? What steps would the Government take to mitigate the consequences? I know that the Government have a reputation for last-minute, often botched, agreements, but we must ensure that delays arising from unnecessary administrative burdens are avoided. We must heed what we have seen in the HGV sector.

Chris Loder (West Dorset) (Con): Does the hon. Gentleman accept that it is this Government who have consistently sought to maintain the connection from the UK to the rest of Europe? Almost 12 years ago, the Government sought to connect London with Frankfurt by direct train. It was not the Government who sought to frustrate that with issues related to the channel tunnel, but the French Administration. Would the hon. Gentleman care to consider that fact?

Mr Dhese: The Labour party has continually argued that the Government need to support Eurostar to ensure connections with mainland Europe, but they have ignored us time and again. The lack of services has been a bugbear for many right hon. and hon. Members with Kent constituencies, with trains no longer stopping at Ashford and Ebbsfleet. A great deal needs to be done and that is why many individuals are disappointed with the Government’s performance.

To ensure the smooth running of cross-border services should be an important priority for our rail network. Indeed, the Minister’s predecessor, the hon. Member for Daventry (Chris Heaton-Harris), shared that belief and noted just last year that the continuation of those services was needed to provide significant economic and social benefits. I hope that we bear that in mind in the future and seek to maximise the benefits for passengers, operators and freight services.

9.37 am

Alison Thewliss (Glasgow Central) (SNP): It is a pleasure to see you in the Chair, Mr Stringer.

Yet again, we have last-minute regulatory legislation, and nobody put this on the side of a bus or, indeed, of a train. The SNP welcomes attempts to retain the close relations that we once had with EU member states prior to Brexit, with mutual recognition of credentials in the channel tunnel zone between Great Britain and France. Without Brexit, we would have retained such mutual recognition automatically, without the palaver of renegeing it in legislation a year after Brexit and two years since the transitional period. This is, of course, less than what we had before.

It is ironic that the Minister claims that the regulations reduce the administrative burden when they introduce new ones. The 2007 directive established a common regime for licensing and certifying train drivers in EU member states with a view to harmonising the regulatory regime to enable train drivers to move more freely across countries. The UK has now left that efficient pan-continental system. We benefited from freedom of movement, and it has been good for many of us and those working across Europe. The UK’s actions to reduce freedom of movement dramatically are to our detriment.

Information-sharing provisions are included to give effect to the requirements of the proposed bilateral agreement. Under them, the ORR will be able to share information with its equivalent French authority, the

[Alison Thewliss]

EPSF. Although the SNP welcomes cross-country information-sharing, our party recognises that the UK has left important EU security institutions, and that may well have an impact on our overall public safety.

This is clearly a time-sensitive issue with the transition deadline at the end of the month. Can the Minister clarify exactly why there has been such a delay? The ORR produced documentation on the issue back on 29 July last year. The Government introduced the relevant draft legislation on 18 October last year, yet here we are, with two weeks to go before the deadline. What are the implications of that delay? How many people are eligible for the European train drivers licence? I am just curious to know how many people may be affected. What impact has that had on jobs and practical operations?

The SNP is keen to see the continued smooth operation of channel tunnel traffic. It provides economic and social benefits to the UK, and to Scotland, and we hope that regulations will provide some long-term clarity, certainty and confidence to cross-border operators regarding the train driving framework for the channel tunnel.

9.40 am

Wendy Morton: I thank hon. Members for their helpful and constructive contributions.

I note what the hon. Member for Slough said about safety and clarity. As I said in my opening remarks, the regulations are designed to support the continued smooth operation of essential channel tunnel traffic. They are designed to deliver long-term certainty, clarity and

confidence to cross-border operations now and into the future. He also referred to the ORR—as a new Transport Minister, I am still trying to learn all the abbreviations. I take on board his comments, but in terms of the ORR and the Great British Railways, I think that strays into slightly different territory beyond the regulations.

It is important to recognise that it is in the mutual interests of the UK and France to support the recognition of train driver licences reciprocally. The bilateral agreement will deliver the smooth operation of channel tunnel traffic. I can assure the hon. Member for Glasgow Central that officials have done a huge amount of work to prepare the regulations.

The regulations will make the necessary changes to ensure that the UK is able to implement an agreement with France on the recognition of British and European train driving licences in the channel tunnel zone. They will provide long-term certainty to the train driver licensing framework applicable to the channel tunnel. They will also support the recognition of cross-border train driving licences on a fully reciprocal basis. That will allow cross-border drivers to continue to operate as they do now, providing certainty, clarity and confidence to passengers and the industry. That will reduce the administrative burden and support the continued smooth operation of those important rail services.

I am grateful for the opportunity to consider the regulations and I hope that the Committee will join me in support of them.

Question put agreed to.

9.44 am

Committee rose.