



**Train Driving Licences  
and Certificates  
Regulations 2010: A  
guide to the certificate  
appeals process**

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## Background

The Train Driving Licences and Certificates Regulations 2010 (TDLCR) give duties to a different organisations and people. We have produced a series of separate guides to explain the duties and responsibilities arising from the TDLCR (as amended) and how to take appropriated action. Together these guides form a complete set of guidance for all aspects of the TDLCR.

There are separate guides:

- [for employers of train drivers](#)
- [for the medical and occupational psychological fitness requirements for train drivers](#)
- for [train driver training and examination requirements and recognition process](#)
- for [suspending or withdrawing a train driving licence](#)
- for [train drivers appealing against decisions made by their employer about the train driving certificate](#) issued to them

We have also published a [‘key facts’ leaflet for train drivers](#).

Following the guides above is not compulsory and you are free to take other action. But if you do follow the guidance you will normally be doing enough to comply with the law. ORR’s inspectors may check that you are complying with the law and may refer to this guidance as illustrating good practice.

We will regularly update these guides, and you can download the latest version of any of these guides from our [website](#).

## 1. Introduction

- 1.1. This guide sets out the process ORR follows when considering train driving certificate appeals under regulation 36 of TDLCR.
- 1.2. Regulation 36 sets out that we can only hear train driving certificate appeals which are about the decision of a railway undertaking or infrastructure manager (referred to as 'employer' in this guide) to:
  - not grant an application for a train driving certificate;
  - not update or renew a train driving certificate; or
  - suspend or withdraw a train driving certificate.
- 1.3. This guide explains what we expect from applicants and includes an application form. The [application form](#) is also available to download separately so it can be completed electronically.
- 1.4. We will normally process TDLCR appeals within 2 months of receiving all the relevant paperwork. Decisions made by us on these appeals are legally binding on the parties. Drivers and train operators should seek a satisfactory outcome to disputes about train driving certificates through internal company processes. We will not therefore consider any appeal from a driver unless all the employer's internal appeals procedures have been followed and completed.
- 1.5. It is likely that appeals heard by ORR will relate to questions of process, fairness or impartiality, and the outcome will not necessarily be a requirement for an employer to issue a certificate to the appellant.
- 1.6. We will not hear certificate appeals on the decisions of doctors, psychologists, trainers or examiners, based on their professional judgement. Their decisions relate only to the conditions that need to be met for the issuing of the train driver licence.
- 1.7. If a case arises where a claim is being made to an Employment Tribunal, as well as a TDLCR appeal to ORR, we will not normally consider whether to hear that appeal until the outcome of the Employment Tribunal case is known. However, this will depend on whether the non-issue, withdrawal or suspension of the certificate is a significant reason for making the claim to the Employment Tribunal.

## 2. Appeal Process

### Making the appeal

2.1. You should address your appeal to ORR's Director of Railway Safety. The form for submitting your appeal is at the end of this guide and is also available to download separately. Once the Director receives your appeal, you will be sent an acknowledgement to confirm your appeal has arrived.

### Receiving the appeal

2.2. A case officer will be appointed and all contact with us on your appeal will be dealt with by this case officer. The rest of the appeal panel who will review your appeal will consist of:

- The Director (or their delegate) as the Chair;
- An ORR lawyer;
- an ORR member of staff who is not party to the details of the case;
- specialist advisors, as needed (e.g. Railway Safety account holder for your employer, human resources specialist etc.); and
- the appointed case officer.

### Deciding to proceed

2.3. The first matter for the appeal panel to decide is whether we can consider the appeal and we will aim to decide this within 10 working days of receiving the appeal. Meeting this deadline will be dependent on the quality and completeness of the appeal information submitted by you and this 10 day period will not start until we are satisfied that we have sufficient information to proceed.

2.4. The appeal panel can only consider an appeal under TDLCR if it is about:

- an unreasonable amount of time taken to issue the certificate i.e. over one month;
- a decision not grant an application for a train driving certificate or its update or renewal; or
- a decision to suspend or withdraw a train driving certificate.

- 2.5. If we decide your appeal falls within these criteria, the appeal panel will also decide if it wishes to hold an oral hearing. In addition, if either the applicant or the respondent requests an oral hearing, one must be held (See paragraph 12 below).
- 2.6. We will not be able to hear the appeal if:
- The appeal concerns matters outside the remit of regulation 36 of TDLCR; or
  - The appellant has not provided us with sufficient information.
- 2.7. The case officer will write to you to let you know:
- That we will hear the appeal, how long the case review will take and when a decision will be made; or
  - That we are minded to hear the appeal, but that we need further information from you at this point. This will have the effect of ‘restarting the clock’ on the time required to process the appeal; or
  - That we have decided that the appeal is outside the remit of the regulations and the process ends here.
- 2.8. If we decide to hear the appeal we will write to the employer whose decision you are appealing against and set out the timescales in which the employer can provide a response to the appeal. To ensure that we can process the appeal within two months of receiving it, a deadline for all representations from both driver and employer will be set as 20 working days from the issue of our letter to proceed with the appeal.
- 2.9. In exceptional circumstances we may appoint a person to hear the appeal

## Hearing the appeal

- 2.10. The appeal panel will request any information from the driver and/or their employer (via the case officer) that is necessary for it to come to a decision on the appeal. This will depend on the complexity of the appeal and the thoroughness of the original representations submitted by you and/or your employer.
- 2.11. You and your employer will be asked if you wish to have an oral appeal. If either party requests this, both of you will get the opportunity to be heard. The appeal panel may ask for an oral hearing at any stage during the process, if the evidence provided by you or your employer conflicts or is unclear, and this cannot be resolved through requesting additional information by correspondence. ORR’s view is that, in practice, a formal oral hearing involving all the parties to the appeal will rarely be necessary. If a hearing is deemed necessary, the case officer will make the necessary arrangements.

2.12. If an oral hearing is held:

- The case officer will set the date for the appeal hearing in consultation with both the driver and their employer;
- The case officer will confirm the date for the appeal hearing with both parties in writing and providing an agenda/timetable;
- At the start of the appeal hearing the Chair will outline the grounds on which the appeal is made;
- The driver or their representative will present their case;
- The employer or their representative will present their reasons for not granting, suspending or withdrawing a certificate;
- A report of the hearing will be prepared and sent to both parties for comments; and
- The final report will be considered by the appeal panel to determine the appeal in addition to all the written evidence provided.

2.13. Once the 20 day period for representations has expired and any appeal heard, the appeal panel will aim to reach a decision within a further 10 working days. This decision will be made following a minuted meeting to discuss the representations and the minutes of this meeting will be made available to both you and your employer.

## **ORR decision**

2.14. The decision will be agreed by the panel and signed off by the Director of Railway Safety or the delegated chair. The case officer will send a copy of the final decision to you and your employer, along with a letter explaining what course of action is necessary (if any) following our decision

## Annex – application form

**APPLICATION TO THE OFFICE OF RAIL AND ROAD  
UNDER REGULATION 36 OF THE TRAIN DRIVING LICENCES AND CERTIFICATES  
REGULATIONS 2010: TRAIN DRIVING CERTIFICATES**

*This form should be used to make an appeal to the Office of Rail and Road (ORR) against the decision of an employer relating to the award, renewal, suspension or withdrawal of a train driving certificate under Regulation 36 of the Train Driving Licences and Certificates Regulations 2010 (TDLCR).*

The form sets out the ORR's standard information requirements for considering such applications.

It is very important that the application is made in good time and prospective applicants are strongly advised to read (and if necessary take advice on) the procedures which are laid out in the guide to certificate appeals.

The regulations can be viewed at <http://www.legislation.gov.uk/ukxi/2010/724/contents/made> .

### 2. The application to appeal

#### 2.1 CONTACT DETAILS OF APPELLANT:

Name:	
Job title:	
Please indicate whether these are home or work contact details	Home <input type="checkbox"/> Work <input type="checkbox"/>
Address:	
Telephone number:	
E-mail address:	
Are you in receipt of advice from a union for this appeal?	
	If yes, please provide contact details for your union representative
	Name:
	Union:
	Telephone number:



### 3. Details of Train Driving Licence and Certificate(s) held.

3.1 Details of the issuer of the licence & certificate should be entered. Please indicate which certificate this appeal relates to and what decision has led to this appeal.

<b>Licence</b>	
Issuing body	
Date of issue	
Date of expiry	
Is the licence currently suspended?	
	If yes, please give reason for suspension below.
Has the licence ever been withdrawn?	
	If yes, please give reason for withdrawal
Medical restrictions	Please list any restrictions below.
<b>Certificate</b>	
Issuing RU/IM	
Contact details	Name
	Address:

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	Telephone number:
Is the RU/IM aware of your appeal to ORR under TDLCR?	
Date of issue	
Date of expiry	
Please tick/cross reason for appeal	
1. Refusal to grant initial certificate	
2. Refusal to update or renew an existing certificate	
3. Decision to suspend certificate	
4. Decision to withdraw certificate	

**4. Background to the appeal**

**4.1 Executive summary** Please provide an overview of the issue. This should include:

- a brief description of the reasons why the appellant is seeking a review of a decision made by a railway undertaking or infrastructure manager relating to the award, renewal, suspension or withdrawal of a train driving certificate );
- a timeline indicating when key decisions were made.
- the details of the internal grievance procedures followed by the RU/IM in question and what the outcome of this was (**If internal grievance procedures are not completed ORR will not hear an appeal**).

*Box will expand to fit text*

## 5. Determination of the appeal

5.1 Under Regulation 36, ORR must ask the appellant and the party against which the appeal is brought if they wish to appear and be heard on the appeal. Please tick/cross as appropriate:

would like the appeal to be held <b>with</b> a hearing of both parties	
I would like the appeal to be held <b>without</b> a hearing of both parties	

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## 6. Other

6.1 **Supporting information** Please reference here any further justification or relevant information in support of the application, including a list and explanation of any other material being submitted (and supply copies with the application). *Box will expand to fit text*

6.2 **Confidentiality exclusions** Please indicate clearly any elements in the appeal that the applicant would wish to exclude from wider consultation on the grounds of confidentiality and provide a full justification for each instance by reference to statutory grounds. Subject to its decision on such exclusions, it is the ORR's intention to publish this application document on the ORR website. *Box will expand to fit text*

## 7. Certification

I certify that the information provided in this form is true and complete to the best of my knowledge

Signed ..... Date ...

Name (in caps) .....

## 8. Submission

### 8.1 What to send

Please supply, in hard copy, a signed copy of this application form, and any other attachments, supporting documents or information.

Please also supply the application and any other supporting information, in electronic form, by E-mail or on disc, **in plain Microsoft Word format** (i.e. excluding any macros, auto-paragraphs or page numbering, or other auto-formatting).

### 8.2 Where to send it

**By post:**

The Director of Railway Safety  
Office of Rail and Road  
1 Kemble Street  
LONDON  
WC2B 4AN

**By e-mail**

[rsd.admin@orr.gsi.gov.uk](mailto:rsd.admin@orr.gsi.gov.uk)



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