



Neutra Citation Number: [2024] UKFTT 00466 (GRC).

**First-tier Tribunal  
General Regulatory Chamber  
Transport**

**Appeal Reference: D/2024/104**

**Decided without a hearing on 21 May 2024**

**Before**

**JUDGE ANTHONY SNELSON**

**Between**

**BALISARA THAPA**

Appellant

**and**

**REGISTRAR OF APPROVED DRIVING INSTRUCTORS**

Respondent

**DECISION**

The decision of the Tribunal is that the appeal is dismissed.

**REASONS**

1. This is the appeal of the Appellant, Mrs Balisara Thapa, against the decision of the Registrar of Approved Driving Instructors ('the Registrar'), conveyed in a letter of 16 January 2024, to refuse her request for a third trainee licence.
2. The matter was listed before me for consideration on the papers. I was satisfied that it was just and proper to decide the appeal without a hearing.

## *The statutory framework*

3. The Road Traffic Act 1988 ('the Act'), s123(1) prohibits the giving of paid driving instruction except where the instructor's name is included in the Register of Approved Driving Instructors<sup>1</sup> ('the Register') or he/she holds a trainee licence.

4. Candidates for membership of the Register must fulfil a number of conditions. These include the requirement to pass an examination divided into three parts ('the examination'): theory; driving ability and fitness; and instructional ability and fitness (the Act, s125(3)(a)). They must apply for a part three test within two years of passing part one; if they do not, they must re-take the entire examination. Candidates who fail part three on three occasions must also re-take the entire examination.<sup>2</sup> And in this case the current trainee licence comes to an end on the day following the third test.<sup>3</sup>

5. By the Act, s129(1) it is provided that trainee licences are granted for the purpose of enabling prospective ADIs who have passed parts one and two of the examination to gain practical experience in driving instruction with a view to taking part three. Trainee licences are valid for six months only. The Registrar is expressly empowered to refuse to grant a trainee licence to an applicant to whom such a licence has previously been issued (s129(3)). It is clear from the language of s129 as a whole that trainee licences are not intended to serve as an alternative to registration.

6. The DVSA website (not, of course, a legal source) includes this advice:

**You should return your trainee licence to DVSA if you are not using it, for example because of a long period of illness.**

**You will not get a refund, but DVSA will know that you have not had full use of the licence. This will be a factor in deciding whether to give you another licence in future.**

On the subject of applications for further trainee licences it states:

**You're more likely to get another licence if you told DVSA you had stopped using the first, for example because of a period of illness.**

**It's unlikely that you'll get another licence if you:**

- **just want more time to pass the approved driving instructor (ADI) part 3 test**
- **did not follow the [rules for using your previous trainee licence](#)<sup>4</sup>**

7. The effect of the Act, s129(6) is that, where a holder of a temporary licence applies during its currency for a fresh licence, the life of the original licence is extended until the commencement of the new licence or, if the application is refused and the holder appeals, until disposal of the appeal.

8. By the Act, s131(2) an appeal lies to the First-tier Tribunal against a decision to refuse an application for the grant of a licence. On the appeal, the Tribunal may make such order for the grant or refusal of the application as it sees fit (s131(3)). In a different but analogous statutory context in *In the matter of the Bonas Group Pension Scheme* [2011] UKUT B 33 (TCC) Warren J, sitting in the Upper Tribunal, held that there was nothing to constrain the

<sup>1</sup> Hereafter the usual abbreviation 'ADI' will be used.

<sup>2</sup> See the Motor Cars (Driving Instruction) Regulations 2005 ('the Regulations'), reg 3(4)(c) and (d).

<sup>3</sup> The Regulations, reg 14(b)

<sup>4</sup> These include a requirement to undertake a specified number of training hours over the first three months of the licence.

first-instance Tribunal’s approach on appeal. Its function is simply to make its own decision on the evidence before it (which may differ from that before the statutory body whose decision is under challenge). Despite this latitude, however, high authority of general application recognises two important points. First, the burden is on an appellant to persuade the Tribunal that the relevant decision should be overturned or otherwise interfered with. Second, the Tribunal should give careful consideration to the reasons for the decision being impugned, given that Parliament has invested the relevant body with exclusive authority (subject to appeal) to make decisions on such matters.<sup>5</sup>

### *The key facts*

9. The background facts can be summarised as follows.
- 9.1 Mrs Thapa passed parts one and two of the examination on 7 September and 1 December 2022 respectively.
- 9.2 On Mrs Thapa’s application, the Registrar granted her two consecutive trainee licences covering the period from 8 January 2023 to 7 January 2024.
- 9.3 On 30 December 2023 Mrs Thapa applied to the Registrar for a third licence. That application was refused by the letter of 16 January 2024, to which I have already referred.
- 9.4 Given the timing of the application for the third licence, the life of the second licence was extended by the Act, s129(6) to the date of disposal of this appeal (see above).
- 9.5 Mrs Thapa booked part three tests for 12 July 2023 and 1 February 2024. She cancelled the former appointment on medical grounds. I accept that she was not in the best of health at the time and I have no reason to doubt her assertion that she did not feel well enough to proceed. The second test went ahead as scheduled and, unfortunately, she failed.
- 9.6 The medical evidence establishes that Mrs Thapa experienced a number of problems including headaches, ear pain, tinnitus and some short-lived episodes of dizziness, some of which seem to have troubled her for a year or longer between 2022 and 2023. She was referred for specialist care at an ENT clinic and required to undergo investigations including a CT scan and blood tests. There were delays owing to NHS waiting lists. It seems that the symptoms of pain have been alleviated by a course of iron tablets prescribed in August 2023.

### *The appeal*

10. In her notice of appeal dated 28 January 2024, Mrs Thapa stated that her health problems had restricted the amount of time which she could devote to preparing for the part three test and contended that a fair outcome would be to grant an extension of her trainee licence for ‘at least six months’.

11. The Respondent resisted the appeal, stressing the importance of not allowing trainee licences to serve as an alternative to the registration system and the fact that eligibility to take the part three test is not conditional upon possession of a trainee licence. Generally, it was contended that the decision which Mrs Thapa seeks to challenge was solidly based and there was no good reason to disturb it.

### *Discussion and conclusions*

---

<sup>5</sup> See *eg R v Westminster Magistrates Court ex p Hope & Glory Public House Ltd* [2011] EWCA Civ 31, paras 39-48 (Toulson LJ).

12. I am not persuaded that there is a good reason to allow this appeal. I have accepted that Mrs Thapa has been hindered to an extent by her health problems but, given the 12 months already allowed (rather than the ‘default’ six months), and the absence of any evidence of any significant medical obstacle to preparing for the part three test from around August 2023 onwards, I see nothing to justify the grant of a third licence. Moreover, as already explained, the effect of the appeal is that the second licence was automatically extended until the date of the Tribunal’s decision. In other words, she has by appealing secured the protection of ‘the badge’ for a consecutive period of over 16 months to date. I hope that she will have been able to re-take the test before my decision reaches her. But if not, she will be free to apply to do so at any point up to 6 September 2024, a date less than four months from now. She will not need a trainee licence in order to complete her preparations. I agree with the remarks on the nature and purpose of the training licence system contained in the Respondent’s response and on its website (see above). Those points argue convincingly against this appeal.

*Outcome*

13. For the reasons stated, I dismiss the appeal.

(Signed) Anthony Snelson  
Judge of the First-tier Tribunal

Date: 21 May 2024