



Neutral citation number: [2025] UKFTT 84 (GRC)

Case Reference: FT/D/2024/0548

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

Decided without a hearing

Decision given on: 05 February 2025

Before

**TRIBUNAL JUDGE THOMAS BARRETT
TRIBUNAL JUDGE HEALD**

Between

SAWPANA AKTHER

Appellant

and

REGISTRAR OF APPROVED DRIVING INSTRUCTORS

Respondent

Decision: The appeal is Dismissed. The Registrar's decision of 14 June 2024 is upheld.

REASONS

Introduction

1. The Appellant is a trainee driving instructor who was granted a trainee licence under section 129 of the Road Traffic Act 1988 (the "Act"), for one six-month period from 27 November 2023 to 26 May 2024. She was refused a second trainee licence by a decision of the Registrar of Approved Driving Instructors ('the Registrar') made on 14 June 2024. The Appellant now appeals that decision.
2. The parties have agreed to a paper determination of the appeal. The Tribunal is satisfied that it can properly determine the issues without a hearing within rule 32(1)(b) of The Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009 (as amended).

3. What follows is a summary of the submissions, evidence and our view of the law. It does not seek to provide every step of our reasoning. The absence of a reference by us to any specific submission or evidence does not mean it has not been considered.

Legal Framework

4. The Appellant's name is not on the Register of Approved Driving Instructors ("the Register") and is therefore prohibited from giving paid driving instructions by section 123 (1) of the Act unless she holds a trainee licence issued by the Registrar pursuant to section 129(1) of the Act.
5. The grant of a trainee licence enables applicants to provide instruction for payment before they are qualified. A trainee licence under section 129(1) of the Act is granted:
'for the purpose of enabling a person to acquire practical experience in giving instruction in driving motor cars with a view to undergoing such part of the examination... as consists of a practical test of ability and fitness to instruct.'
6. In order to qualify as an Approved Driving Instructor, applicants must pass the 'Qualifying Examination' comprised of three parts: the written examination ('Part 1'); the driving ability and fitness test ('Part 2'); and the instructional ability and fitness test ('Part 3').
7. The whole qualifying examination must be completed within two years of passing Part 1, and only three attempts are allowed for each Part, failure to comply with either of these requirements results in the whole examination needing to be retaken.
8. If a candidate has passed Part 2, they may be granted a trainee licence. The grant of a trainee licence enables applicants to provide instruction for payment before they are qualified. It is possible to qualify as an Approved Driving Instructor without having held a trainee licence.
9. By section 129(3) of the Act
"The Registrar may refuse to grant a licence under this section to an applicant to whom such a licence has previously been issued."
10. By section 129(8)(c) of the Act
"before deciding whether or not to refuse the application, the Registrar must take into consideration any such representations made within that period."
11. By section 129(6) of the Act:-
"Notwithstanding any provision of regulations made by virtue of subsection (5) above prescribing the period for which a licence is to be in force, where a person applies for a new licence in substitution for a licence held by him and current at the date of the application, the previous licence shall not expire –
(a) until the commencement of the new licence, or
(b) if the Registrar decides to refuse the application, until the time limited for an appeal under the following provisions of this Part of this Act against the decision has expired and, if such an appeal is duly brought, it is finally disposed of."
12. The powers of the Tribunal in determining this appeal are set out in s.131 of the Act. The Tribunal may make such order as it thinks fit.
13. When making its Decision, the Tribunal stands in the shoes of the Registrar and takes a fresh decision on the evidence available to it, giving appropriate weight to the Registrar's decision as the person tasked by Parliament with making such decisions.

The burden of proof in satisfying the Tribunal that the Registrar's decision was wrong rests with the Appellant.

The Appeal

14. The Appellant's notice of appeal dated 25 June 2024 relies on the following grounds as reasons for the appeal:
 - a. She had less training during her first trainee licence due to the significant caring responsibilities she has for others.
 - b. She has a second Part 3 test scheduled for the 14 August 2024.
 - c. She needs to be able to show a valid trainee licence to her insurer otherwise her driving instructor insurance will be cancelled and she will not be able to further train or attend the test.
15. The Appellant's notice of appeal also stated her desired outcome of the appeal is *"to be granted a second trainee licence in order to continue training before the test on the 14th of August [as] I have paid for the test"*.
16. Additionally in the Appellant's representations to the Registrar by email of the 28 May 2024 she also set out that:
 - a. She was unable to pass the Part 3 test on the first attempt due to several personal challenges.
 - b. Her caring responsibilities *"significantly limited [her] ability to focus on [her] training."*
 - c. She had attempted to book a second Part 3 Test but it was put on hold by the system.
17. The Registrar's notice of refusal dated 14 June 2024 states the reasons for the refusal as:
 - a. The Appellant failed to comply with the conditions of the first licence.
 - b. The Appellant had already been granted one trainee licence of six months duration which is considered to be a more than adequate period of time.
 - c. It was not Parliament's intention that the candidates should be issued licences for as long as it takes them to pass the examination and the trainee licence system must not be allowed to become an alternative to registration as a fully qualified Approved Driving Instructor.
18. The Registrar's statement of case dated 4 July 2024 resists the appeal. The Registrar states that:
 - a. The Appellant failed to comply with the conditions of her first licence as the training objectives on her ADI 21 AT training record form were not all completed within the first three months of the licence period (para 5).
 - b. The purpose of the provisions governing the issue of licences is to afford applicants the opportunity of giving instruction to members of the public whilst endeavouring to achieve registration. The system of issuing licences is not and must not be allowed to become an alternative to the system of registration (para 6(i)).
 - c. The licence granted to applicants is not to enable the instructor to teach for however long it takes to pass the examinations, but to allow up to six months experience of instruction. This provides a very reasonable period in which to reach the qualifying standard in the examination and in particular, to obtain any necessary practical experience in tuition. Moreover, by virtue of the Appellant

having applied for a second licence before the expiry date of the first, that licence has remained in force to the present time and will allow her to continue to give paid instruction until determination of the appeal (para 6(ii)).

- d. Since passing her driving ability test the Appellant has failed the instructional ability test once (Annex A) Despite ample time and opportunity the Appellant has not been able to reach the required standard for qualification as an Approved Driving Instructor. (para 6(iii)).
- e. The refusal of a second licence does not bar the Appellant from attempting the instructional ability test of the Register examinations. She does not need to hold a licence for that purpose, nor is it essential for her to give professional tuition under licence in order to obtain further training. The Appellant could attend a training course, or study and practice with an Approved Driving Instructor or give tuition on her own (provided that she does not receive payment of any kind for this). These alternatives are used by some trainees who acquire registration without obtaining any licences at all (para 6(iv)).

The evidence

19. We considered a bundle of evidence containing 20 numbered pages, including the Appellants full trainee licence history from the registrar up to 4 July 2024.

Conclusions

20. We have considered the Appellant's points of appeal.
 - a. We accept that the Appellant's personal circumstances and significant caring responsibilities will likely have impacted her ability and availability to train during the period of her first trainee licence and prior to her unsuccessful attempt of the Part 3 test on 23 May 2024.
 - b. We are aware that it can be difficult to book a Part 3 test and it is common for the system to take a booking but immediately place it 'on hold' without a date being set for the Part 3 Test. However, we also note that the Appellant had a second attempt at the Part 3 Test scheduled for the 14 August 2024 (it is unknown to us whether that Test took place and if it did, what the outcome was).
 - c. We also accept that the holding of a Trainee licence is necessary in order to maintain the necessary insurance needed when training by giving instruction for payment.
21. Nevertheless, despite it being a common misunderstanding, it is not the case that individuals are entitled to continual renewal of trainee licences until they pass their Part 3 test. The six month period of such licences is set on the basis this is an adequate period to prepare for the Part 3 Test, and it is not necessary to hold a Trainee Licence in order to either prepare for or to take the Part 3 test.
22. We note that the Appellant has already had the benefit of one trainee licence covering a period of six months from 27 November 2023 to 26 May 2024. Additionally, by applying for a second trainee licence the Appellant has had the benefit of s.129(6)(b) of the Act extending the first trainee licence until this appeal is disposed of (i.e. a period of almost 14 months).
23. We further note that had the second trainee licence been granted this would have expired at the end of November 2024, long before the consideration of this Appeal and providing a total of only 12 months coverage.

24. We also note that the Appellant passed her Part 1 test on the 22 December 2022 and so her two-year period within which she must have passed both the Part 2 and Part 3 tests had expired by the 23 December 2024.
25. The Appellant has therefore had the benefit of being able to train by giving instruction for payment for an additional period of almost 8 months. Notably exceeding both:
 - a. her stated desired appeal outcome of an extension so as to allow her to continue training up to her booked Part 3 Test on the 14 August 2024, as well as
 - b. the fixed statutory maximum period within which she must pass the Part 3 test.
26. The Appellant has not persuaded us that the Registrar's decision was wrong in any way. In all the circumstances, we agree with the Registrar's decision and dismiss this appeal.

Signed Tribunal Judge Thomas Barrett

Date: 19/1/2025