



Neutral citation number: [2025] UKFTT 122 (GRC)

Case Reference: FT-D-2024-0796

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

**Heard at: CVP Hearing  
Decision given on: 10 February 2025**

**Before**

**JUDGE PERI MORNINGTON**

**Between**

**DAMIEN THOMAS**

Appellant

**and**

**REGISTRAR FOR APPROVED DRIVING INSTRUCTORS**

Respondent

**Decision:** The appeal is allowed. A new trainee licence is granted from the date of this decision until and including 31 March 2025.

**For the Appellant:** In person.

**For the Respondent:** Did not attend

## **REASONS**

### **Introduction**

1. This is an appeal against a decision of the Registrar of Approved Driving Instructors ('the Registrar') made on 9 September 2024 to refuse to grant the Appellant a third trainee licence.

## **Legal Framework**

2. The grant of a trainee licence enables applicants to provide instruction for payment before they are qualified.
3. A trainee licence may be granted in the circumstances set out in s. 129 of the Road Traffic Act 1988 ('the Act') and the Motor Cars (Driving Instruction) Regulations 2005.
4. A 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.'
5. In order to qualify as an Approved Driving Instructor, applicants must pass the Qualifying Examination. This comprises: the written examination ('Part 1'); the driving ability and fitness test ('Part 2'); and the instructional ability and fitness test ('Part 3').
6. Three attempts are permitted at each part. The whole examination must be completed within 2 years of passing Part 1, failing which the whole examination has to be retaken.
7. 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.
8. 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.
9. 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.

## **Factual Background to the Appeal**

10. The Appellant passed Part 1 of the Qualifying Examination on 25 May 2023. He passed Part 2 on 6 June 2023. He cancelled a Part 3 test scheduled to take place on 5 December 2023. The appellant failed a first attempt at the Part 3 test on 22 February 2024 and failed a second Part 3 test on 14 August 2024.

11. The Appellant applied for a trainee licence which was granted and was valid from 21 August 2023 to 20 August 2024 following an application for a second licence.
12. The Appellant, applied for a third trainee licence in August 2024 which was refused by the Registrar.
13. The reasons for the Registrar's decision, in summary, were that no evidence of lost practice time had been provided by the Appellant and that the Appellant had already had a sufficient amount of time to gain experience to assist in passing Part 3 of the Qualifying Examination and that it was not the intention of Parliament that candidates should be issued with trainee licences for as long as it takes them to pass the examination, and that the trainee licence system must not be used as an alternative to registration as a fully qualified Approved Driving Instructor.

### **Appeal to the Tribunal**

14. The grounds of appeal are, in summary:
  - a. The Appellant has not had the opportunity to have three attempts at his Part 3 test. Should the Appellant not hold a trainee driving instructor licence, he will not be permitted to use the vehicle provided by his instructor school and will, accordingly, be unable to take his third and final attempt at the Part 3 test.
  - b. The Appellant has faced financial difficulties which has meant he has had to prioritise his other job over driving instructor training.
15. The Registrar in his response states:
  - a. 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.
  - b. 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. The Appellant has already had two trainee licences which cover a period of 12 months. Moreover, by virtue of the Appellant having applied for a third licence before the expiry date of the second, that licence has remained in force to the present time and will allow him to continue to give paid instruction until determination of the appeal.

- c. Since passing his driving ability test the Appellant has cancelled one of the instructional ability tests and failed two attempts at the Part 3 test. Despite ample time and opportunity, the Appellant has not been able to reach the required standard for qualification as an Approved Driving Instructor.
  - d. The refusal of a third licence does not bar the Appellant from attempting the instructional ability test of the Register examinations. He does not need to hold a licence for that purpose, nor is it essential for him 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 his own (provided that he 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.
16. The Appellant has a third and final test booked and on hold with a date yet to be confirmed.

### **Evidence**

17. I read and took account of a bundle of documents and I also heard oral submissions made by the Appellant at a hearing on 3 February 2025.

### **Discussion and Conclusions**

18. In submissions, the Appellant confirmed that he now has a date secured for his third attempt at the Part 3 test. The test is scheduled to take place on 31 March 2025. I accept that the Appellant has had financial difficulty and, without a further trainee licence would be unable to take the Part 3 test on 31 March 2025 as he would not be permitted to use a car from his training school. I accept that the Appellant is not in a financial position to source an alternative vehicle to use on the day of his test.
19. I note that the Appellant has already had the benefit of two trainee licence covering a period of 12 months. Although this should have been adequate time to prepare and by virtue of his application for a third licence prior to the expiry of his second licence, the Appellant has retained his trainee licence until the date of this decision and has been permitted to provide paid instruction during this time, I find that in the circumstances, and particularly given the proximity of the Appellant's final attempt and the length of time the Appellant has waited for this matter to come before the Tribunal, it is just and fair to grant an extension of his trainee licence to 31 March 2025 only.
20. Should the Appellant fail his third attempt at the Part 3 test, he will be forced to return to the start of the process and take all three Tests again. Accordingly, it is not necessary for a trainee licence to be extended beyond 31 March 2025 and certainly

not for a further 6 months from the date of this decision, as requested in the initial appeal.

21. Having weighed all matters in the balance, the Appellant has persuaded me that it is just and fair to allow the appeal and a further trainee licence is granted until 31 March 2025 only.

Signed: Judge Peri Mornington

Date: 3 February 2025