



Tástáil Ródacmhainneachta um Fheithiclí Tráchtála  
Commercial Vehicle Roadworthiness Testing

## ***CVR Test Operator & CVR Tester Supervision Policy***

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## 1 Purpose of this policy

High quality, impartial and consistent testing is a cornerstone of the Road Safety Authority's ('Authority') drive to ensure that only compliant, safe and roadworthy commercial vehicles operate on Ireland's roads. The Authority is responsible for the authorisation and supervision of CVR test operators and CVR testers and the enforcement of standards and compliance in relation to the conduct of testing of commercial vehicles in Ireland. This document outlines the Authority's current supervision policy underpinning the authorisation and supervision of CVR test operators and CVR testers.

This document is not intended to be an exhaustive or definitive account of all possible performance management aspects for CVR test operators and CVR testers and other requirements in relation to CVR testing; rather it is intended to explain the process for addressing poor CVR testing performance (by CVR test operators or CVR testers), non-compliances in relation to the Authorisation granted, the categories of such infringements / non-compliances ('Minor', 'Serious' and 'Very Serious') and the options available to the Authority to address such circumstances.

The Authority reserves the right to update and amend this policy from time to time, as may be required, and the latest version will be available on [www.cvrt.ie](http://www.cvrt.ie).

CVR test operators are also expected to have their own supervisory and disciplinary procedures in place which are specific to their business and which ensure that their CVR testers deliver high quality consistent CVR testing in accordance with the CVR Regulations and the CVR test operators and CVR testers authorisations.

## 2 Principles underpinning the Road Safety Authority's supervision policy

This policy has been developed to inform consistent and high quality CVR testing, adherence to the requirements of authorisation, as well as fairness and consistency in the treatment of CVR test operators and CVR testers.

CVR test operators and testers must conduct CVR tests in accordance with their legal obligations and conditions of authorisation. The Authority's primary objective for the testing network is a consistent high quality testing process, conducted impartially and correctly at all times. To this end the following key principles underpin this policy:

### Road Safety Authority principles:

- **Fairness and transparency:** the Authority will fulfil its regulatory oversight obligations in a manner that is consistent, fair, impartial and open;
- **A risk-based approach to compliance:** the Authority will conduct ongoing risk assessments (known as the Test Centre Risk Indicator or TCRI) of CVR test operators and CVR testers based upon a range of factors including outcomes of inspections at CVR Testing Centres, CVR tester performance, vehicles inspected at the roadside and the outcomes of inspections at operators' premises, to enable risk-based targeting and enforcement. In this way the Authority will focus investigation and enforcement resources on those CVR test operators and CVR testers who are non-compliant or who do not implement sufficient controls to deliver high quality and consistent CVR testing. By contrast those CVR test operators and CVR testers who are found to be compliant on an ongoing basis, have implemented appropriate controls and who deliver high quality and consistent testing may be subject to less frequent or less intense inspections;
- **Remedies proportionate to the seriousness of infringement:** the Authority has developed a range of remedies proportionate to the nature of the infringement found,

ranging from advice and education through to more serious enforcement actions including suspension and revocation of authorisations; Prosecutions for offences may also be taken in accordance with the provision of the Road Safety Authority (Commercial Vehicle Roadworthiness) Act, 2012 and the regulations.

- **Zero tolerance:** the Authority takes a zero tolerance approach to handling cases of fraud, bribery, taking improper payments, wilful negligence and other actions demonstrating a lack of regard for public safety; and
- **Adherence to European Commission guidance:** the Authority adheres to the European Commission guidance in relation to the classification of infringements (Commission Recommendation: 2010/379/EU) and alignment to the use of risk-based targeting and enforcement of standards related to vehicle roadworthiness.

#### Shared principles:

- **Public safety:** the Authority will fulfil its regulatory obligations with a clear and unambiguous focus on public safety. CVR test operators and CVR testers will conduct their operations at all times with public safety at the heart of what they do;
- **Continuous improvement:** the Authority, CVR test operators and CVR testers will work together to continuously improve commercial vehicle roadworthiness through shared knowledge, insight and expertise and committing to measures to drive continually improving standards; and
- **Adherence to the Authority's policy requirements:** the Authority, CVR test operators and CVR testers will adhere to the Authority's policy requirements in relation to testing independence and the management of conflicts of interest.

### 3 CVR test operator and CVR tester legal obligations and responsibilities

CVR test operators and CVR testers must discharge their testing obligations and responsibilities in accordance with :

- the Road Safety Authority (Commercial Vehicle Roadworthiness) Act 2012 (the “**Act of 2012**”);
- any regulations made under the Act of 2012;
- the European Communities (Carriage of Dangerous Goods by Road and Use of Transportable Pressure Equipment) Regulations 2011 (S.I. 349/2011);
- the conditions of authorisation held by CVR test operators;
- the conditions of authorisation held by CVR testers;
- ongoing training requirements (including passing assessments) relevant to the authorisation held;
- guidelines issued by the Authority under section 38 of the Act of 2012; and
- any directions issued by the authorised officers and CVR inspectors, “authorised under the Act of 2012”.

In addition to the foregoing:

- each newly authorised CVR test operator, including an existing authorised CVR test operators who is granted an amended authorisation to test a new category of Commercial

Vehicle is required to undergo initial CVR test operator training and each CVR test operator is required to undergo CVR test operator CPD (Continuous Professional Development) training every two years; and

- each newly authorised CVR tester, including an existing authorised CVR tester who is granted an amended authorisation to test a new category of Commercial Vehicle is required to undergo initial CVR tester training relevant to such CVR tester's authorisation (for example, initial HCV training or initial LCV training or ADR training) and each CVR tester is required to undergo annual CVR tester CPD training.

The Authority's independence policy must be adhered to where either the CVR test operator or the CVR testers have an interest in a vehicle :

- CVR test operators are required to declare any vehicle in which they or their CVR testers have an interest (own and/or operator, lease or have temporary ownership of) prior to testing. Testing a vehicle without notifying the Authority constitutes an infringement and may attract disciplinary points.
- When the Commercial Vehicle Information System (" CoVIS") is operational, CVR test operators will be obliged to provide advance notification of material interest in vehicles to be tested when booking a CRW test. The RSA will have to be notified at least 2 working days prior to the proposed test.
- In advance of CoVIS, CVR test operators who intend to test vehicles in which they have an interest shall notify Authority by submitting a *Disclosure of Material Interest in CVR Vehicles Form* to cvtadmin@rsa.ie or fax it to 091 872 660 at least 2 working days before the proposed test. The Authority intends to monitor these declarations and may include them as a factor in deciding the level of supervision applied to that CVR test operator and/or CVR tester. This requirement concerning disclosure of material interest will be kept under continuous review by the Authority.
- CVR testers are prohibited from testing any vehicle which they have maintained or repaired within the previous 2 working days. CVR test operators must provide advance notification of vehicles tests where the CVR tester has maintained or repaired a vehicle within the previous 3 weeks.

#### **4 Approach to the supervision of commercial vehicle testing**

##### *Supervision arrangements*

The Authority will supervise and enforce standards relating to the roadworthiness of CVR vehicles. In this regard, the Authority will oversee the quality and consistency of CVR testing through:

- ongoing, rigorous and consistent inspections of the CVR Testing Centres. Inspections may be announced or unannounced and they can be either planned or random in nature. The inspections may involve a range of processes including the inspection of testing records and other documentation relating to CVR testing, observation of CVR testing (either remotely or in-person), the independent re-test of vehicles which have completed a CVR test for the purposes of verifying the accuracy of the testing process, as well as follow up inspections;
- ongoing risk assessments of CVR test operators and CVR testers by means of data analysis, including the identification of atypical testing trends across a wide range of criteria. As part of this risk assessment, the Authority's risk indicator system will allocate a Testing Centre Risk Indicator (TCRI) to CVR test operators and CVR testers based on a number of factors (including the results of inspections at CVR Testing Centres);
- ongoing 'consistency checks' of test lane equipment by performing a CVR test using the same commercial vehicle on test lanes across Ireland to verify the accuracy of test lane equipment; and

- ongoing investigations arising from the Authority's information gathering activities or as a result of data analysis.

#### *Use of other investigative methods*

The Authority will supplement its data analysis and inspection techniques, as necessary, with other investigative methods to ensure the consistency and integrity of CVR testing. Such investigative methods may include the use of mystery shopping and other surveillance techniques, and may utilise data captured from Close Circuit Television ('CCTV') cameras (which will be used for CVR purposes only in accordance with Authority CVR CCTV & ANPR Policy).

As it is neither practical nor cost effective for the Authority's authorised officers to observe every CVR test conducted across Ireland, the Authority will analyse test data to ascertain that unobserved CVR tests are being conducted in line with the testing standards and that testing trends are consistent between unobserved tests and observed tests.

The Authority intends to analyse CVR testing of all CVR test operators and CVR testers to identify atypical test activity and results. While such atypical activities and results do not in themselves indicate non-compliant or poor quality testing, the Authority may take into account such atypical activities and results for further investigations and in determining the level of supervision to be applied to CVR test operators and CVR testers to ensure correct CVR testing is being conducted and that any testing variance is justified.

Such data analysis may be conducted against averages and acceptable statistical tolerances.

Where atypical activity is identified, the Authority will conduct a thorough investigation to determine whether testing is being conducted in compliance with requirements, including:

- a. whether test equipment is being used correctly;
- b. whether a CVR tester is correctly carrying out CVR tests (including by means of test observations and unannounced independent vehicle re-tests);
- c. whether other factors may be contributing to the atypical test activity and results.

#### *Independent inspections of CVR vehicles following the CVR test*

The Authority may use the Commercial Vehicle Information System ("CoVIS") to place a "hold" on the issue of a test result for a short period of time after a commercial vehicle has been tested in order to allow for an authorised officer to inspect or observe a re-inspection of that commercial vehicle to verify that the CVR test has been carried out correctly. The Authority will endeavour to minimise the delay to the completion of the test of the vehicle.

If the CVR tester is shown to have tested incorrectly, and the Authority considers that it is likely that commercial vehicles tested previously may have received incorrect test outcomes, then the Authority may inspect such commercial vehicles previously tested by that CVR tester. Such inspections may take place at a suitable location including at the roadside, at the vehicle operator's premises or at a CVR Testing Centre.

If conducted at the CVR Testing Centre, the inspection may take the form of a re-test the cost of which will be borne by the CVR Testing Centre which conducted the original test. The Authority may, at its discretion, place such commercial vehicles on watch-lists in order to prioritise such commercial vehicles during roadside inspections.

## 5 The Disciplinary Process

Depending on the categorisation of the infringement / non-compliance, and taking into account the seriousness, potential impact on public and road safety, and the prior performance history of the CVR test operator or CVR tester, the Authority will determine the most appropriate action to address the circumstances of the infringement / non-compliance. This may include:

- **Advice and Education** as to the improvement required regarding minor issue (not to be repeated).
- **Direction Notice:** requiring the recipient to perform a rectification task to address a noted infringement or non-compliance. This may include a direction to stop testing on a particular lane or to stop using a specific piece of equipment which could result in the testing centre not being able to conduct tests.
- **Corrective training:** training mandated by the Authority, at the recipients own cost, to address the performance infringement / non-compliance found. This may include a reassessment by the training provider, or the Authority, as to the recipient's competency in terms of CVR testing or operation of the CVR test centre.
- **Increased Supervision** including desk based reviews by Authority personnel and more frequent inspections at the testing centre (at the cost of the CVR test operator).
- **Suspension of authorisation to test:** please see **Section 8**. This may apply to a CVR tester or a CVR test operator.
- **Revocation of authorisation to test:** please see **Section 9**. This may apply to a CVR tester or a CVR test operator.
- **Prosecution of offences:** in addition to any of the above actions, the Authority may also prosecute offences for non-compliance under the Act of 2012 and the Regulations. A summary of offences is included in **Section 17** below.

### *Ongoing patterns of non-compliance*

As previously described, the Road Safety Authority has powers to apply a range of remedies to address instances of non-compliance and may take into account in determining the appropriate remedy to apply the circumstances of the non-compliance, its seriousness and the prior performance history of the CVR test operator or the CVR tester.

In circumstances where there is evidence of patterns of on-going minor or serious non-compliances, thereby reflecting poor management or inadequate supervision of testing, this may ultimately result in suspension of testing and / or a CVR tester..

The Authority is also entitled to revoke the CVR Tester or CVR Test Operator authorisation if there is history of repeated non-compliance with the conditions of authorisation and repeated breach of directions, even when the rectification measures have been implemented.



## 6 Disciplinary Points System

To keep track of CVR testing centre compliance with the Rules and Regulations, a Disciplinary Point System, similar to the cumulative points system used for driving offences, will be implemented.

The purpose of introducing Disciplinary Points as a measure to enforce compliance with the obligations of an Authorisation is two-fold:

- a) to enable the Authority to monitor the CVR Testing Center or a CVR Tester compliance with the conditions of authorisation,
- b) to enable CoVIS to trigger alerts to Suspensions when serial non-compliance seriously impacts on the volume of work required by the Authority / Technical Inspection Service to enforce compliance (additional inspections, additional communication, additional administration).

The Disciplinary Points are not intended to replicate or replace any standard disciplinary measures that are based on the outcome of an inspection e.g. Advice and Education, Direction Notice, Corrective Training, Stop Notice etc, but rather to identify patterns or trends of non-compliance where the level has become such that the Authority needs to address the issue.

### *How it will work*

The Disciplinary Points System will involve applying points to any infringements / non-compliances related to the obligations of an Authorisation. The starting point in this system is zero and as time progresses, Disciplinary Points are accumulated. Each CVR Testing Centre will be allocated a Disciplinary Points Threshold, which may be dependent on the Testing Centre size or volume of tests performed.

When the accumulated number of points for non-compliance reaches the CVR Testing Centre Disciplinary Points Threshold level, the CVR Testing Centre will be flagged to the Authority Authorisations team for an immediate performance review. Following this review, a disciplinary action may be taken which may include increased supervision, a suspension or even revocation of authorisation.

The Threshold for CVR Testing Centres may differ depending on the size of the CVR Testing Centre or the volumes of the tests performed. The precise number of points ("The Threshold"), that will trigger the review and potentially a suspension, is yet to be determined, but, it is not the intention of the Authority to initiate performance reviews without valid cause arising from repeated non-compliances. In considering this, the Authority will have regard to the number of test lanes in each CVR Testing Centre. To apply closer supervision to multiple offenders, the Disciplinary Points Threshold may be lowered on each suspension.

### **Example**

*If the initial Threshold was set to 40 points, it could be reduced to 30 on the first Suspension/Reinstatement, to 20 for the second Suspension and to 10 on the third Suspension. At any time, the Authority may decide the non-compliances were so severe that the Authorisation would be revoked.*



### *How will the Disciplinary Points be applied?*

The Disciplinary Points will apply to all infringements except very minor non-compliances where the non-compliance will be addressed on first occurrence by verbal guidance and education.

Disciplinary Points will be allocated to a CVR Testing Centre as a result of an inspection conducted by an Authorised Officer or may be applied by the Authorisations Team for any non-compliance issue that is not established via the Inspection method (e.g. inadequate insurance, failed fit & proper, failure to submit annual audited financial statements etc).

The Disciplinary Points applicable to a specific CVR tester will count towards the CVR Testing Centre's Total.

The infringements will be assessed in terms of severity and Disciplinary Points will be applied according to the following rules:

- Minor infringements, will attract 1 point
- Serious infringements will attract 3 points
- Very serious infringements will attract 11 points

Depending on the nature and circumstances of the non-compliance a very serious infringement may result in a recommendation for suspension or may require immediate suspension of a CVR test operator authorisation. The very serious infringements which are likely to attract immediate suspension include, but, are not limited to :

- Inadequate insurance (Public Liability and Professional Liability)
- Conviction for non-compliance with Health & Safety Regulations.
- Inadequate, incorrect or fraudulent information kept
- Serious non-conformance with Authority Premises and Equipment Guidelines which would result in testing not being able to be completed correctly e.g. required testing equipment not present, not functioning or not properly calibrated
- CVR Testing Centre / CVR test operator failing to notify the Authority about specified offences or failing a Fit & Proper vetting; or convicted for an offence stipulated in the 2012 Act; or failed to notify Authority about a specified conviction.
- Serious non compliance with testing process as per the LCV or HCV tester manuals
- CVR tester testing vehicles for which he/she is not authorised.

Repeated infringements not rectified by the next inspection or a date stipulated in the Direction Notice) will result in an escalation of points which will be accumulated. For example a minor infringement on second occurrence will attract 3 points instead of 1.

### *Communicating Disciplinary Points to the CVR test operator*

Disciplinary Points allocated by an Authorised Officer will be communicated to the CVR test operator in writing on the CVR Testing Centre Inspection Outcome Report.

The Report will state the severity of the infringement, number of Disciplinary Points applied, escalation level, total number of Disciplinary points and an applicable Threshold (limit of points before a performance review is initiated). As mentioned above, an Authorised Officer may recommend an immediate suspension for a very serious non-compliance regardless of the number of points.

Disciplinary Points applied by the Authorisations Team will be communicated via an appropriate Notice.

### *Resetting/Recalculation of Total Disciplinary Points*

It is intended that the points will be kept on active record for 24 months. The points that are older than 12 months will not be counted towards the total, provided the issue has been rectified. The Total of Disciplinary Points accumulated by each Testing centre will be a running total of all applicable points.

Where a Suspension has been lifted (provided all outstanding directions have been complied with) and the CVR Testing Centre is fully compliant on the re-instatement of the Authorisation, Disciplinary Points Total will be reset to zero, however to discourage repeated suspensions, the Threshold for a performance review may be lowered each time the centre is suspended and reinstated.

For example, if the Threshold was set at 40 points (Normal Level), it could be reduced to 30 on the first Suspension, to 20 for the second Suspension and to 10 on the third Suspension.

At any time, the Authority may decide the non-compliances were such that the Authorisation should be revoked.

Lowering of the Testing centre Threshold will be communicated to the Testing centre and the CVR test operator via appropriate Notice. The new Disciplinary Points Threshold will be reflected on the next Inspection Report.

Any Points on a Testing centre record will be reset to zero on Authorisation Renewal, as renewal would only have been granted provided all non-compliances were addressed. The Threshold of Points will also be re-set to normal.

## **7 Classification of infringements / non-compliances**

If the Authority, an authorised officer or CVR inspector identifies an infringement or non-compliance by a CVR test operator and/ or a CVR tester as a result of an inspection or other investigative method, the Authority, authorised officer or CVR inspector, as the case may be, will categorise such infringement or non-compliance as **'minor'**, **'serious'**, or **'very serious'**.

The tables overleaf broadly set out the main categories of infringements. It is important to note that these are examples only and should not be treated as exhaustive. It is also important to note that a number of these infringements are offences which are prosecutable under the RSA (CVR) Act, 2012 (see Section 16 for list of offences).

## Example of Infringement Severity Assessment and Disciplinary Points Allocation

RSA Concern Type	Infringement / Non-compliance description	Severity of Infringement			
		Minor 1 Point	Serious 3 Points (serious one off or repeated minor)	Very Serious 11 Points (very serious one off or repeated serious)	Very serious, potential reason for immediate suspension
1. Tax Compliance	1.1 Failure to submit <u>on time</u> statutory tax returns.		✓	✓	
2. Adequate Insurance	2.1 Inadequate or not present insurance cover for the purpose of carrying out CVR tests. Confirmation of Cover re Public Liability and Professional Liability not kept on file by the Test Centre and/or not available for inspection when requested.			✓	✓
3. Adequate Financial Standing CVR Test Operator	3.1 Failure to make financial returns to the RSA.		✓	✓	
	3.2 CVR Test Operator or a CVR Testing Centre not financially fit to operate.			✓	✓
4. Fit & Proper Test Centre and Testers	4. 1 Failing Fit & Proper Vetting following assessment under section 12 of the Act of 2012 (applies to CVR Test Operators and CVR testers).				✓
	4.2 Failure, to make a Fit and Proper declaration by notifying the RSA in writing of any new convictions for an offence under section 12 of the Act of 2012 (applies to CVR Test Operators and CVR testers)).			✓	✓
5. Test Centre Conformance with Health and Safety Regulations	5.1 Conviction for offences under Health and Safety Regulations			✓	✓
	5.2 Health and Safety Audit finding of Failure to comply with Health and Safety Regulations (not convicted).	✓	✓	✓	
6. Accurate, valid and complete documentation kept as defined by the rules of authorisation	6.1 Failure to maintain records as required by Act of 2012, any regulations made under the Act of 2012 or conditions of authorisation including vehicle preparation, financial records and test documentation as defined in RSA Guidelines	✓	✓	✓	✓
	6.2 Failure to report to the RSA within <b>one working day</b> a major/serious non-compliance as identified during an ISO / CITA9B assessment or on-going audit or inspections		✓	✓	
	6.3 Keeping or presenting of <b>fraudulent or misleading records</b> – examples may include fictitious or misleading test documentation; financial records, calibration certificates; assessments; insurance certs, audit sheets			✓	✓
	6.4. Failure to adequately safeguard test inspection records or data from theft		✓	✓	✓
	6.5 Failure to report <b>CoVIS system</b> faults within one day or to safeguard CoVIS equipment.*	✓	✓	✓	

RSA Concern Type	Infringement / Non-compliance	Severity of Infringement			
		Minor 1 point	Serious 3 Points (serious one off or repeated minor)	Very Serious 11 Points (very serious one off or repeated serious)	Very serious, potential reason for immediate suspension
7. Testing Standards – Testing Process properly defined and adhered to	7.1 Failure by the CVR test operator to adhere to testing process as described in LCV & HCV Test Manuals to the required standard.	✓	✓	✓	✓
	7.2 Failure by the CVR test operator to manage the ongoing performance of CVR testers including conducting internal quality observations and assessments.		✓	✓	
	7.3 Failure to advise the presenter of a CVR vehicle of dangerous defects and / or failure to affix a “fail dangerous” notice on such a vehicle.		✓	✓	
	7.4 Failure to notify the Authority via CoVIS when a vehicle which should not be driven on the public roads until defects are rectified has been driven off the premises.*		✓		
	7.5 Fraud, bribery, taking improper payments, wilful negligence and other actions demonstrating a lack of regard for public safety.			✓	✓
	7.6 Failure to use CoVIS in accordance with the CoVIS Guidelines *	✓	✓	✓	
	7.7 Incorrect issue or use of a test report/pass			✓	✓
	7.8 Deliberate obstruction of, or tampering with, CCTV cameras.*			✓	
	7.9 Failure to prevent an unauthorised person from testing a CVR vehicle or purporting to be a CVR test operator or a CVR tester in respect of a class of vehicles for which they are not authorised to test.			✓	✓
	7.10 Failure to ensure that CVR testers employed or otherwise engaged by a CVR test operator are up to date with mandatory CVR tester refresher training			✓	✓
	7.11 Failure to display CVR test operator Authorisation certificates		✓	✓	
	7.12 Failure to define or implement an adequate complaints policy /procedure.	✓	✓	✓	
	7.13 Failing to declare a CVR test operator interest in vehicles to be tested at least 2 days prior to the test or the testing of a CVR vehicle by a tester who prepared the vehicle for testing or has an interest in it.		✓	✓	

RSA Concern Type	Infringement / Non-compliance	Severity of Infringement			
		Minor 1 point	Serious 3 Points (serious one off or repeated minor)	Very Serious 11 Points (very serious one off or repeated serious)	Very serious, potential reason for immediate suspension
8. Adequate Test Centre Premises	8.1 Failure of the Test Centre Building to comply with <b>Planning and Building Regulations</b>	✓	✓	✓	
	8.2 Failure of the Test Centre Building to comply with the <u>latest RSA Premises &amp; Equipment Guidelines</u> e.g. <ul style="list-style-type: none"> <li>The building fabric is not maintained or does not provide a sound, weatherproof, environment for testing.</li> <li>The test lanes are inadequately illuminated (with even light distribution) to allow CVR testing to be carried out with ease</li> <li>The test lane(s) and test hall is not clean and tidy and free from unnecessary equipment or obstruction or spillages.</li> <li>The customer facilities including parking, reception, waiting areas and toilets do not meet requirements.</li> </ul>	✓	✓	✓	
	8.3 Incorrect or absent branding of the test centre/testers. CVR tester is not appropriately attired and presented	✓	✓	✓	
9. Test Centre Prescribed Equipment (present, functioning and properly calibrated)	9.1 Failure to possess specified equipment in accordance with RSA Premises and Equipment Guidelines relevant to the category of CVR vehicles to which an authorisation relates.**	✓	✓	✓	✓
	9.2 Equipment not functioning or not properly maintained <ul style="list-style-type: none"> <li>Tool for pressing brake</li> <li>Pit/lift lights</li> <li>Smoke extraction</li> <li>Wheel chocks</li> <li>Low voltage lamp</li> <li>Tyre tread depth gauge</li> <li>Tyre inflation equipment</li> <li>Lever 1 metre long</li> <li>Diesel data book</li> </ul>	✓	✓	✓	
	9.3 Equipment not functioning or not properly maintained in accordance with manufacturers recommendations <ul style="list-style-type: none"> <li>Decelerometer</li> <li>CO tester</li> <li>Air gauges</li> <li>5<sup>th</sup> wheel measuring pin</li> <li>Tool for measuring trailer pin</li> <li>Air gauge for by-passing LCV</li> </ul>		✓	✓	
	9.4 Equipment not functioning, not properly maintained in accordance with manufacturers recommendations or not properly calibrated <ul style="list-style-type: none"> <li>Roller brake tester</li> <li>Diesel smoke meter</li> <li>Headlight aim tester</li> <li>Jacking system</li> <li>Axle load simulator (HCV only)</li> <li>Lift (where applicable) – LCV only</li> <li>Shock absorber tester (LCV only)</li> <li>Wheel play detectors</li> <li>Test plug for ABS/EBS (HCV only)</li> <li>Instrument for checking speed limiter (HCV only)</li> <li>Sideslip tester</li> </ul>			✓	See note *** below
	9.5. Where the following equipment is not connected to CoVIS and no derogation has been given for this:** <ul style="list-style-type: none"> <li>Roller brake tester</li> <li>Diesel smoke meter</li> <li>Headlight aim tester</li> <li>Shock absorber tester (LCV only)</li> <li>Sideslip tester</li> </ul>		✓	✓	

RSA Concern Type	Infringement / Non-compliance	Severity of Infringement			
		Minor 1 point	Serious 3 Points (serious one off or repeated minor)	Very Serious 11 Points (very serious one off or repeated serious)	Very serious, potential reason for immediate suspension
10. General Terms & Conditions of Authorisation	10.1 Obstruction of, or failure to cooperate with an authorised officer or CVR inspector who is trying to inspect or prohibit using specific testing equipment, observe a specific process or inspect the premises			✓	✓
	10.2 Failure to comply with a direction issued by an authorised officer or CVR inspector –regarding testing equipment, premises or testing process/standards	escalation of disciplinary points given for the relevant infringement may be applied			✓
	10.3 Test centre not performing tests for 6 months or longer				✓

### **Notes:**

\* Disciplinary points will be introduced for infringements marked with an \* post COVID.

\*\* Disciplinary points marked with an \*\* relate to premises and equipment minimum requirements. Disciplinary Points will not be applied to certain requirements such as those relating to partition walls, lifts, opacity light metre, headlamp aim tester electronic output, dedicated parking, ISO9001/CITA 9B, until the expiry of the 18 month period for applying for renewal of the authorisation. This is to give test centres time to meet these obligations although some of them were already requirements under the 2004 guidelines. Equipment not capable of connection with Covid may be temporarily exempt from this requirement if this is stated in a special Derogation issued by RSA.

\*\*\* Although this may not result in a suspension of a CVR testing centre, it can result in a direction to stop testing on a particular lane.

The Severity of Infringements is indicative ranging from Minor to Very Serious:

- Minor, Serious and Very Serious Infringements are included on the Test Centre Inspection Outcome Report.
- For Serious, Very Serious and some Minor Infringements a Direction Notice will be issued. Disciplinary Points are also given and escalated for non-compliance.
- The column on the right identifies infringements which are most likely to attract immediate suspensions. This column is included in the interest of ensuring full clarity for CVR test operators and CVR testers. However, other “very serious infringements” may also lead to recommended suspensions. The RSA reserves the right to take appropriate action up to and including suspension of an authorisation where the nature or frequency of the infringement is of such a serious nature that it warrants suspension.

## 8 Suspension of an authorisation to test

The Act of 2012 provides that the Authority may suspend the authorisation of a CVR test operator or CVR tester where such CVR test operator or CVR tester:

- is in breach of one or more conditions of the authorisation or has not carried out tests under the authorisation during the period of 6 months immediately preceding the suspension;
- is in breach of the Act of 2012, any regulations made under the Act of 2012 or any guidelines issued by the Authority;
- has been convicted of an offence under the Safety, Health and Welfare at Work Acts 2005 and 2010;
- is in breach of a direction issued by an authorised officer or CVR inspector; or
- is no longer a fit and proper person, having regard to section 12 of the Act of 2012, to hold the authorisation

Where the Authority suspends the authorisation of a CVR test operator or CVR tester, the authorisation holder shall be notified in writing of:

- the fact of the suspension, and the rectification / actions required
- the date the suspension takes effect; and
- the non-compliance(s) giving rise to the suspension
- the time period during which the authorisation holder is to rectify the non-compliance.

If the issues being the reason for the suspension have been rectified within the time frame stipulated in the Suspension Notice, the Deciding Officer should be notified (in writing) by the concerned party.

If the CVR Tester or the CVR Test Operator does not rectify the issues listed in the Suspension Notice within the given time frame, unless they have a valid reason for non-compliance, their authorisation will be suspended and ultimately revoked.

## 9 Revocation of authorisation

The Act of 2012 further provides that the Authority may revoke the authorisation of a CVR test operator or CVR tester where:

- the authorisation holder requests that his or her authorisation be revoked;
- following a notification under section 18 of the Act of 2012 that a non-compliance giving rise to a suspension of an authorisation must be rectified within a certain time period, the non compliance has continued after a time allowed to rectify the situation; or
- the authorisation holder is no longer a fit and proper person, having regard to section 12 of the Act of 2012, to hold an authorisation.

Where the Authority proposes to revoke an authorisation, the Authority shall give 7 calendar days' written notice of such intention and shall invite the authorisation holder to make written submissions within that 7 day period.

If the Authority does not receive any written submission within the 7 day period, the authorisation shall stand revoked on the expiry of such period.



Where written submissions are received, if having considered such submissions, the decision is taken to continue to revoke the authorisation, the authorisation holder shall be so advised by the Authority and the revocation shall take effect 7 calendar days following the date of that communication.

Where the decision is taken to accept the submission, the authorisation holder will be advised in writing of the next course of action required to re-instate the authorisation.

## **10 Reinstatement of an authorisation which has been suspended or revoked**

CVR test operator and CVR tester authorisations will be reinstated:

- a) when the grounds for suspension or revocation have been rectified as directed and in full,
- b) or if the reason for suspension or revocation of authorisation is successfully appealed.

Where a visit by an authorised officer is required to verify that full compliance with the conditions of authorization has been restored, the Authorised officer will visit the CVR Testing Centre as soon as practical.

The CVR test operator will be required to cover the cost of the reinstatement including the cost of any visit and any cost of associated with reinstating the CoVIS system at the premises. The CVR test operator will be notified in advance of such charges being incurred.

Costs of reinstatement of authorisation will not be incurred where the suspension or revocation has been successfully appealed. Where, in the case of suspension, the appeal is not complete at the time of reinstatement, costs will be charged and recouped in the event of a successful appeal

## **11 Fees relating to repeated inspections and reinstatement of authorisations**

CVR test operators will be liable to reimburse to the Authority any additional costs borne by the Authority in relation to repeated inspection visits required to assess compliance with a particular disciplinary action or CVR testing standards generally. The charge will be €200 for each half day or €350 for a full day (being more than a half day).

The cost of reinstating CoVIS is anticipated to be €120, although if CoVIS can be connected remotely, no charge may arise.

## **12 What disciplinary or enforcement action will be taken in a given case**

This policy does not confine, restrict or limit the discretion of the Authority to take any action to safeguard the CVR system. The appropriate disciplinary or enforcement method will have regard to the circumstances of the case.

The Authority will seek to encourage compliance through advisory and direction measures and for more serious issues and where poor attitudes to compliance exist through, more formal enforcement action. The Authority will consider the degree of harm caused having regard to the wider public interest, conduct of the CVR test operator, implications for Authority in administering the CVR legislation and road safety. Factors that will be taken into account will include:

1. the disciplinary or enforcement method that is most likely to achieve the best outcome in terms of achieving consistent delivery of CVR testing and compliance with the various legal requirements
2. the measures that are necessary to ensure compliance with the requirements of the legislation;
3. the impact or potential impact of the contravention on the CVR system and its possible impact on the maintenance of acceptable standards within the commercial vehicle testing scheme generally and the Authority ability to administer its legislation;

4. the level of harm that the misconduct/contravention causes to the overall objectives of the CVR scheme
5. the level of cooperation given to the Authority and the Technical Service Provider when responding to informal requests/directions/notices etc
6. the level of cooperation and willingness to put in place appropriate remedial actions including the speed of response
7. the voluntary action taken to mitigate any harm and putting in place mechanisms to prevent any recurrence of the contraventions
8. previous history and frequency of contraventions
9. whether the alleged offenders have made false or misleading statements to Authority / Technical Inspection Service during an inspection;
10. culpability of the alleged offender, including any mitigating or aggravating circumstances;
11. the wider public interest, including the need for specific and general deterrence and maintaining exemplary standards;
12. possible legal precedents; and finally statutory time-limits

While the above is not intended to be an exhaustive list, it does give a strong indication of what Authority expects from CVR test operators and that we will use all available means to ensure that proper standards are maintained at all times.

### 13 Test Centre Risk Indicator

In addition to the commencement of any disciplinary process outlined above, inspection findings will be incorporated into the Authority's ongoing risk assessment process for CVR test operators and CVR testers (known as the Test Centre Risk Indicator).

The details entered in the Test Centre Risk Indicator and the risk indicator determined by the Authority in relation to CVR test operators and CVR testers in accordance with Section 39 of the Act of 2012 will inform the allocation of future inspection and enforcement resources by the Authority and enable the Authority to focus resources on those CVR test operators and CVR testers who are inconsistent or non-compliant whilst enabling those who operate in a fully compliant fashion to go about their business with minimal disruption.

#### *Relationship Between Disciplinary Points and the Test Centre Risk Indicator (TCRI)*

The two systems serve two different purposes:

- The TCRI is designed to give an overall rating to the CVR Testing Centre based on both positive and negative performance. It strikes a balance between the two and is used for prioritising supervisory arrangements and benchmarking the CVR Testing Centre against the entire testing network. Ratings are relative to the rest of the network with positive and negative issues diminishing in relevance over time.
- The Disciplinary Point system is a system that is designed to capture the cumulative effect of non-compliances over a set time period (e.g. 12 months). The objective is to set trigger levels in order to flag to Authorisations staff that repeated issues have escalated to a point where a more severe Disciplinary Action needs to be considered. Scores are not relative to the testing network (they are not a benchmark).

### 14 Access to information by CVR test operators and CVR testers

Once CoVIS becomes operational, CVR Testing Centres, will be able to view and run reports, via the CVR web portal, which will show how their testing centre may be comparing against national averages. This portal will also allow the CVR test operator to view results of inspections which have

been carried out at the testing centre and to view communications, such as any Direction Letters, which may have been issued.

The Testing Centre Risk Indicator (TCRI) will be accessible via this portal and this shall allow a testing centre to further see the impact that any inspection may have had on their TCRI rating. The portal will be rolled out initially on Go Live of CoVIS with various elements of the portal such as TCRI being made available as and when they are implemented in the subsequent phases.

## **15 The Appeals Process against Suspension or Revocation of an Authorisation**

Section 22 of the Act of 2012 sets out the procedure for making an appeal against a decision of the Authority to suspend or revoke an authorisation. A CVR test operator or CVR tester whose authorisation has been suspended or revoked may, within 21 calendar days of the date of the actual suspension or revocation, appeal to the Authority in writing against the decision or part of it.

The appeal must set out the grounds for the appeal. and, in the absence of such grounds, the appeal will not be considered by the Authority.

The Authority will appoint an officer of the Authority of a rank that is the same or higher than the officer of the Authority who made the decision that gave rise to the appeal, to be an Appeals Officer to consider and decide on the appeal.

Appeals Officers shall be independent in the performance of his or her functions, and shall notify the appellant of his or her decision and the reasons for making that decision.

Where practicable, the Authority's Appeals Process will endeavour to reach a decision within one month of the Appeal being received. If this is not possible, the Appellant will be notified in writing.

The Appeals Officers may be advised by an independent external advisory panel.

The decision of an Appeals Officer on any appeal referred to him or her is final and conclusive.

Where an appellant has been notified of the decision of an Appeals Officer and is dissatisfied with that decision, the appellant may, in accordance with Section 22(9) of the Act of 2012, within 14 days after the date of the notification of the Appeal's Officer decision, appeal to the judge of the Circuit Court in whose Circuit the appellant resides or principally carries on business against the decision.

Where an appellant appeals to the judge of the Circuit Court he or she shall at the same time notify the Authority in writing of that appeal.

While the decision of the Appeals Officer stands suspended until the appeal to the Circuit Court has been determined or withdrawn, the suspension or revocation of the authorisation by the Authority remains in force pending the outcome of the appeal.

On the hearing of the appeal from the decision of the Appeal Officer, the Court may either confirm the decision or allow the appeal. Where the judge of the Circuit Court allows the appeal, the suspension or revocation of authorisation will be withdrawn as soon as practicable.

Further information on the appeals process is available on [www.cvrt.ie](http://www.cvrt.ie).

## **16 Review process of a Direction of an authorised officer or CVR inspector.**

A request for a review of a direction of an authorised officer or a CVR inspector may be lodged in writing with a Deciding Officer of the Authority within 1 working day of the Direction Notice being

issued. The Deciding Officer's review of the Direction may be conducted remotely or may involve an inspection by an Authority Authorised Officer.

The CVR test operator shall bear the cost of the repeat inspection where the original Direction is upheld by the Deciding Officer. The Direction shall be valid and complied with pending the decision of the Deciding Officer. The Deciding Officer will make a decision within a period of 3 working days where the Direction would affect the CVR test operator's ability to continue testing. Otherwise the Deciding Officer shall make a decision as soon as practicable.

## **17 Offences under the Act and Regulations**

The CVR Act and Regulations provide a strong legal basis for supervising the conduct of the CVR test including Authority powers to issue directions and suspend and revoke authorisation. CVR test operators and CVR testers should be aware that the CVR Act 2012 also provides the Authority may take prosecution for certain breaches of legal obligations which are deemed to be offences under the Act. CVR test operators and CVR testers should inform themselves fully of the provisions of the Act, but, the key relevant offences are set out here for information :

### **Section 4 Mandatory roadworthiness testing of certain vehicles**

Section 4(4) provides that :

"A person who carries out, or purports to carry out, a CVR test or who issues, or purports to issue, a pass statement in contravention of any regulations made under this section commits an offence."

### **Section 9 CVR test operators and CVR testers**

Section 9 (4) provides that:

"A CVR test operator who fails to display his or her authorisation in accordance with regulations made under this section commits an offence and is liable on summary conviction to a class B fine."

### **Section 12 Fit and Proper person**

Section 12(6) provides that:

"A person who fails to notify the Minister [Authority] in accordance with this section or who notifies information to the Minister knowing it to be false or misleading commits an offence"

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### **Section 23 Offence of purporting to be CVR test operator or CVR tester while not so authorised.**

**Section 23 (1) provides that::**

A person who purports to be a CVR test operator or CVR tester while knowing that he or she is not so authorised (or while knowing that such authorisation is suspended) commits an offence.

### **Section 25 Powers of authorised officers – CVR testing**

Section 25 (4) provides that:

"A person who—

- (a) without reasonable excuse fails or refuses to comply with any request or requirement made by an authorised officer under subsection (1),
- (b) obstructs, impedes, interferes with or assaults an authorised officer exercising a power under subsection (1),

- (c) gives to an authorised officer information which he or she knows to be false or misleading in a material respect, or
- (d) alters, suppresses, or destroys any statements, certificates, books, documents, data or records, which the person concerned has been required to produce, or reasonably expected to be required to produce, commits an offence.

Section 25 (6) provides that:

“A person who—

- (a) fails or refuses to comply with, or
- (b) directs or induces another person to contravene, a direction of an authorised officer under subsection (5) commits an offence.
- (7) A person guilty of an offence under this section is liable on summary conviction to a class A fine”.

## **Section 28 CVR information systems and CVR records**

Section 28(7) provides that:

“A person who removes, destroys, or otherwise interferes with records, documentation or data referred to in subsection (6) commits an offence.

## **Section 41 Certain penalties and prosecutions**

41.—(1) A person guilty of an offence under section 4(4), 12(6), 23(1) or 28(7) is liable—

- (a) on summary conviction, to a class A fine or to imprisonment for a term not exceeding 6 months, or to both, and
- (b) on conviction on indictment, to a fine not exceeding €100,000 or imprisonment for a term not exceeding 12 months, or to both.

(2) Proceedings for an offence under this Part may be brought and prosecuted summarily by the Authority.

(3) Where a person is convicted of an offence under this Part, the Court shall, unless it is satisfied that there are special and substantial reasons for not doing so, order the person to pay the costs and expenses, measured by the Court, incurred by the relevant prosecuting authority in relation to the investigation, detection and prosecution of the offence.

(4) Costs and expenses referred to in subsection (3) may include costs and expenses incurred in relation to any one or both of the following:

- (a) legal representation at Court, and
- (b) the remuneration and other expenses of enforcement officers, consultations or advisers.

## **Section 42 Offence by body corporate**

42.—Where an offence under this Part is committed by a body corporate and is proved to have been committed with the consent of, or to be attributable to any neglect on the part of, any person, being a director, manager, secretary or other officer of the body corporate or a person who was purporting to act in such capacity, that person, as well as the body corporate, commits an offence and is liable to be prosecuted against and punished as if he or she had committed the first mentioned offence.

## **18 Regulations applying to CVR testing**

Apart from the legal provisions contained in the Road Safety Authority (Commercial Vehicle Roadworthiness) Act 2012 referred to above, there are other statutory provisions in Regulations relating to vehicle testing and the authorisation of commercial vehicle testing centres and testers. These Regulations are as follows:

1. Commercial Vehicle Roadworthiness (Vehicle Testing) Regulations 2013 (S.I. No. 106 of 2013)

2. Authorisation of Commercial Vehicle Roadworthiness Test Operators and Testers  
Regulations 2013 (S.I. No. 107 of 2013)

For further details go to [www.cvrt.ie](http://www.cvrt.ie)