



Tástáil Ródacmhainneachta um Fheithiclí Tráchtála
Commercial Vehicle Roadworthiness Testing

COMMERCIAL VEHICLE ROADWORTHINESS (CVR)

TEST OPERATOR AUTHORISATIONS

“GETTING THINGS RIGHT”

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COMMERCIAL VEHICLE ROADWORTHINESS TEST OPERATOR AUTHORISATIONS – “GETTING THINGS RIGHT”

1. *Introduction*

- 1.1 **Overview:** This leaflet is published by the Road Safety Authority (RSA) primarily for “authorised testers” appointed to test vehicles under the European Communities (Vehicle Testing) Regulations 2004, (S.I. 771 of 2004), who will be authorised as “CVR test operators” pursuant to section 10 of the Road Safety Authority (Commercial Vehicle Roadworthiness) Act 2012 (the “2012 Act”) for the purposes of conducting CVR testing in Ireland. Only those “authorised testers” named on the Register of “Authorised Testers” held by the Local Authorities will be authorised as CVR test operators.

References in this leaflet to Heavy Commercial Vehicle (HCV) means HGV and PSV vehicles. Smaller vehicles are referred to as Light Commercial Vehicles (LCV).

1.2 *Purpose of this leaflet.*

The purpose of this leaflet is to:

- (a) assist CVR test operators in “getting things right” in relation to complying with the requirements of the 2012 Act, regulations being made under the 2012 Act and guidelines issued by the RSA when applying for renewal of their CVR test operator authorisations;
- (b) ensure that CVR test operators are informed of key legal requirements which will impact on the issue, renewal and amendment of CVR test operator authorisations; and
- (c) identify key actions that CVR test operators should put in place in order to avoid delays and other issues in relation to the renewal of their CVR test operator authorisations.

1.3 *Cautionary Notes*

The information in this leaflet is based on:

- the 2012 Act;
- regulations to be made under the 2012 Act; and
- guidelines issued by the RSA.

This leaflet provides a summary only of certain requirements and is intended to assist CVR test operators in understanding and meeting their legal obligations. *This leaflet does not provide legal advice or interpretation of the 2012 Act or the Regulations.* It is recommended that CVR test operators familiarise themselves fully with the Act. The Act is available on the the RSA website www.rsa.ie/cvr and the Regulations will be placed on the site as soon as they are available.

2. Important information.

2.1 *Expiry of CVR test operator authorisations:* In accordance with section 10(2) of the 2012 Act, all authorisations under section 10(1) as a CVR test operator will expire at the end of a two year transition period. Each CVR test operator will be informed by the RSA of the start date and end date of their CVR test operator authorisation. Only those persons or companies listed on the Register of “authorised testers” will be authorised under the Act of 2012.

2.2 *Renewal of CVR test operator authorisations:* In accordance with Section 10(3) of the 2012 Act, an application for renewal of an authorisation as a CVR test operator must be submitted to the Road Safety Authority within 18 months from the start date of the CVR test operator authorisation.

CVR test operators are encouraged to apply for renewal of their authorisation as a CVR test operator at the earliest possible date. There is no advantage to CVR test operators to delay the submission of applications for renewal of CVR test operator authorisations. The RSA will liaise with each CVR test operator in relation to their state of preparedness to apply for renewal of the authorisation.

2.3 *Consequences of failing to apply for renewal within the 18 month deadline:* If a valid application for renewal of a CVR test operator authorisation is not received before the expiry of the 18 month deadline, then the applicant will be categorised as a “new applicant” and will be required to pay a minimum fee of €8,500 (the fee will be higher if the CVR testing centre has more than one Heavy Commercial Vehicle (HCV) test lane and one Light Commercial Vehicle (LCV) test lane. It may also be the case that the CVR test operator is not authorised for a period of time while the application is being processed.

It is an offence under Section 23 of the 2012 Act for a person to purport to be a CVR test operator while knowing that he or she is not so authorised

2.4 CVR testers to be/being employed: An applicant seeking to renew their authorisation as a CVR test operator will be required, as part of the application process, to supply the name of each CVR tester employed or to be employed by him/her for the purpose of conducting CVR tests. Under Section 17 of the 2012 Act, a person who is a "trained person" and who is on the register referred to in Regulation 9(1)(b) of SI 771/2004 (i.e. the tester performing the tests) immediately before the commencement of section 17 of the 2012 Act is automatically authorised as a CVR tester. This "automatic" authorisation expires 18 months after the commencement of section 17 of the 2012 Act. CVR testers must submit their application for re-authorisation early. Please see the CVR tester "Getting Things Right at the CVR tester level" for further information

3. Ensuring your application for renewal is successful

3.1 Requirements specified by the Act of 2012

The 2012 Act specifies the requirements to be complied with before a CVR test operator authorisation will be renewed. A CVR test operator must:

- i. complete an application form and supply supporting documentation;
- ii. pay the required fees (if relevant);
- iii. be tax-compliant and in possession of a valid tax-clearance certificate;
- iv. have access to suitable facilities, premises, equipment and qualified testers necessary to enable tests to be carried out;
- v. have access to the necessary financial resources to provide CVR testing including the requisite insurance; and
- vi. meet fit and proper person requirements.

The 2012 Act provides that any decision on whether to renew an authorisation shall have regard "*to whether or not the CVR test operator has performed his or her functions in accordance with the authorisation*".

3.2 *Completing the application form and supporting documentation*

The instructions provided in this leaflet set out the basic steps you need to know to complete an application for renewal of a CVR test operator authorisation and to satisfy the renewal requirements. If any required documents are missing or an application form is not correctly completed the application will be returned to the applicant. Applications will be categorised as being “valid” upon receipt of a properly completed form and all supporting documentation. Applicants should note that the Road Safety Authority may seek additional information from an applicant in support of an application.

Note: If your application is not correctly completed and does not contain the necessary supporting documentation, your application will be returned and you will have to re-apply.

Action that applicants must take:

- i. obtain a copy of the correct application form for renewal of a CVR test operator authorisation which will be available on the RSA website (www.rsa.ie/cvr) or you may contact the RSA directly;
- ii. complete all relevant sections of the application form;
- iii. where a CVR test operator is applying for renewal of more than one authorisation i.e. where there is more than one CVR testing centre, a separate application form for renewal is required for each CVR testing centre;
- iv. submit the following supporting documentation :
 - a. an original tax-clearance certificate which must be valid at the time that the application is recorded as being received by the Road Safety Authority.
 - b. copies of the annual accounts
 - c. details of Insurance coverage from insurance company conforming to requirements specified in the Premises and Equipment Guidelines
 - d. notification of convictions of specified offences, if relevant
 - e. evidence of ISO 9001/CITA 9B certification

3.3 *Renewal fees*

No fee will be charged for a first renewal of an authorisation provided that the CVR test operator applies for renewal before the expiry of the 18 month deadline for receipt of applications for renewal. If a valid application for renewal is not received within the 18 month deadline, the application will be treated as a new application and the applicant will be required to pay a fee of €8,500 (the fee will be higher if the CVR testing centre has more than one HCV test lane and one LCV test lane).

Inspection fees may be payable in certain circumstances – please refer to Section 6 of this leaflet for further information.

Fees will also apply to changes to authorisation, additional lanes etc – information on fees will be placed on the RSA website www.rsa.ie/cvr in due course.

3.4 Facilities, premises, equipment and qualified testers for testing

3.4.1 *Premises and facilities:* The RSA has published Premises and Equipment Guidelines for CVR test operators 2012 (the “Guidelines”) which set out the premises and equipment necessary to undertake CVR testing. A CVR test operator who does not meet the requirements specified in the Guidelines will not be authorised as a CVR test operator on the expiry of their transitional authorisation.

Some testing centres have received a derogation from the Local Authorities in relation to the following requirements:

- provision of a 20 metre pit
- drive through facility and
- door height with 4.8 metre clearance

The time frame for the derogations listed above was to allow testing to continue for a period of 20 years after 31 December 2007 or until the termination of the current lease on the premises whichever is the later. As indicated in the Premises and Equipment Guidelines, the RSA proposes that , the derogations referred to above will be reviewed on a case by case basis and the RSA may approve the existing derogation where it is satisfied that it is not physically possible to meet the requirements. In the case of a drive through the operator must put forward proposals for the safe entrance and exit of vehicles, for approval by the RSA. An independent risk assessment of the proposals must also be provided in the case of HCV authorisation. The risk assessment must, *inter alia*, include information and measures that achieves adequate safety protection to ensure the safe and orderly conduct of vehicles arriving at or leaving the testing premises.

The RSA will not contemplate any new applications for derogation nor allow any other derogations. Indeed the RSA will be actively encouraging those testing centres with the derogations to implement measures which could result in the removal of the

derogations. The RSA is already liaising with the testing centres who have been granted a derogation by a Local Authority.

It will be a condition of authorisation that risk assessments will need to be updated in the light of any modification, conversion or alterations at a CVR testing centre.

The Premises and Equipment Guidelines require all CVR testing centres to have a clearly defined physical partition between test activities and other activities on the premises. The Authority will accept a 2 metre high partition dividing test lanes from workshops as meeting its requirements in this regard. Where the Authority is satisfied that a 2 metre high partition is not physically possible, the CVR test operator must put forward proposals to otherwise meet the requirement to have a clearly defined physical partition between test activities and other activities on the premises for approval by the Authority.

The term “not physically possible” means that the CVR testing centre premises is bounded by buildings or land not owned or leased by, or otherwise within the control of, the CVR test operator which means that it is not possible for the CVR test operator to extend his or her CVR testing centre premises to meet one or more of the requirements referred to above.

Recommended actions in relation to premises and equipment:

- i. ensure that your premises, facilities and equipment conform with the RSA's Premises and Equipment Guidelines 2012;
- ii. if relevant, agree a plan for addressing issues relating to the premises with the Road Safety Authority;
- iii. notify the RSA when the agreed plan has been implemented;
- iv. ensure compliance with relevant Health and Safety at Work Requirements; and
- v. ensure that the premises to be used as a CVR testing centre has the necessary consents from the Local Planning Authority.

3.5 Calibration of test equipment

The Premises and Equipment Guidelines set out timeframes for the calibration of test equipment. A CVR test operator shall ensure that each item of test equipment to be used for CVR testing:

- (a) is properly calibrated before its first use and thereafter is calibrated at such frequency as may be specified by the RSA;
- (b) is calibrated by persons who have sufficient knowledge, skills and understanding of accepted testing standards and relevant technical guidance relating to such test equipment; and
- (c) complies with any guidelines issued by the RSA in relation to test equipment to be used for CVR testing.

3.6 Requirements in relation to CVR testers. The application process will require each CVR test operator to provide the name of each tester employed by him or her for the purposes of conducting CVR tests. The Authority will be contacting each tester who is to be authorised as a CVR tester for the purposes of the Act of 2012.

Recommended actions in relation to CVR testers

- i. ensure that each CVR tester employed, or to be employed, by you has received an 18 month authorisation as as a CVR tester from the RSA;
- ii. ensure that each CVR tester employed, or to be employed, by you has applied for a full authorisation as a CVR tester within a period of 12 months;
- iii. seek confirmation in writing from each CVR tester that he/she has received a full authorisation as a CVR tester from the Road Safety Authority and particularly as regards the types of vehicle that he/she is authorised to test;
- iv. ensure that each CVR tester has completed the necessary training to be a CVR tester including having satisfactorily completed the necessary periodic training or corrective training if such arises;
- v. set up a reminder system that automatically alerts you when testers are due to conduct periodic training;
- vi. conduct enquiries to establish that the CVR tester(s) employed at the CVR testing centre has/have notified the Road Safety Authority about convictions for the specified offences (See Section 4 for further information in this regard)

A person who is not authorised as a CVR tester is not entitled to conduct CVR tests on commercial vehicles

3.7 Having access to financial resources to conduct CVR testing

3.7.1 As a CVR test operator, among other obligations, you:

- (a) must have available or the capacity to obtain, the necessary financial resources to provide CVR testing and to carry out supervisory arrangements for the purposes of testing;
- (b) should do all things necessary to ensure that the services covered by your authorisation are provided efficiently, honestly and fairly; and
- (c) must comply with the 2012 Act, the regulations, any guidelines made by the RSA and your conditions of authorisation.

3.7.2 All CVR test operators will be required, in accordance with the Act of 2012 to furnish a current tax clearance certificate – the RSA may request that CVR test operators furnish a tax-clearance certificate annually for the purpose of ensuring continuing compliance with the financial resources requirement specified in the Act.

3.7.3 Applicants will be required to provide the following documents with their application for renewal:

- (a) A copy of the most recent audited annual accounts in the name of the applicant that covers the last two years of trading or for the period of trading that is available if trading is less than two years. If audited accounts are not available, a copy of the most recent unaudited accounts that cover the past two years or the period that is available if trading is less than two years. If you are supplying unaudited accounts, this must be accompanied by:
 - (i) An accountant's letter stating that, to the best of their knowledge and based on the information provided to them, the accounts are a true and fair representation of the financial position of the applicant; and
 - (ii) A letter from your bank confirming that you have the necessary financial resources.
- (b) Insurance coverage that meets public and professional liabilities as specified from time to time in the RSA premises and equipment guidelines.

Please Note: We may ask questions and may also request additional supporting documents during the application process in relation to the financial standing of the applicant.

In order to adhere to the requirements of the Act of 2012, CVR test operators will be obliged to submit their annual accounts on an annual basis for as long as they remain holders of a CVR test operator authorisation. These annual accounts must contain details of test fee charges and reconcile with the RSA records of tests conducted by the CVR test operator.

3.8 Fit and proper person requirements

3.8.1 The Road Safety Authority (Commercial Vehicle Roadworthiness) Act 2012 establishes a “fit and proper” regime which is an important part of the CVR test operator and CVR tester authorisation arrangements being implemented by the RSA.

The fit and proper person requirements are designed to ensure that the key personnel involved with the testing of CVR vehicles have the characteristics and principles necessary to ensure the delivery of high quality services and outcomes for CVR vehicle owners as well as wider public safety considerations. These requirements are set to protect and inspire confidence in the CVR testing regime and to safeguard Ireland’s reputation in relation to the testing of CVR vehicles.

The fit and proper regime creates a framework that

- a) seeks to ensure that only persons who are fit and proper persons are permitted to conduct CVR testing;
- b) assists in the governance processes of CVR test operators and CVR testers;
- c) reflects best practice; and
- d) seeks to promote confidence amongst CVR vehicle owners and the public generally.

The RSA will publish a policy guideline which sets out relevant criteria in the assessment of whether or not a person is a fit and proper person for the purposes of the 2012 Act. These guidelines can be downloaded from the RSA website in due course.

It is not the case that a conviction will automatically result in a finding that a person is not fit and proper. In determining whether a person is a fit and proper person to hold an authorisation, the guiding principle for the RSA is to act reasonably in making a decision on the basis of the information available to it. It is possible that a minority of applicants and authorisation holders may not be regarded as fit and proper persons and if the RSA determines that a person is not a fit and proper person for the purposes of the 2012 Act, the RSA may:

- in the case of an application for authorisation as a CVR test operator, refuse the application; or
- in the case of a holder of an authorisation as a CVR test operator, suspend or revoke the authorisation.

4. *Meeting the Fit and Proper Requirements*

4.1 CVR test operators need to fully understand the legal obligations contained in the Act of 2012 and to take appropriate measures and precautions to ensure that they are fit and proper persons to hold CVR test operator authorisations. In the case of a CVR test operator that is a company, such CVR test operator must take appropriate measures and precautions to ensure that each director and the company secretary is a fit and proper person to hold a CVR authorisation.

4.2 There may be circumstances where a person assessed as being fit and proper is unable to carry out his/her role and a replacement needs to be appointed at short notice. The RSA requires that CVR test operators must notify the Authority about changes in directors or the company secretary; if the RSA determines that the newly appointed director or company secretary is not a fit and proper person, the RSA may suspend or revoke the authorisation unless a suitable replacement is appointed. For the purpose of collecting information for assessment and bearing in mind the fit and proper requirements specified in the Act, the RSA recommends that CVR test operators require the submission of:-

- (a) a questionnaire to be filled in by each individual who will be subject to the fit and proper person assessment
- (b) a curriculum vitae indicating the qualifications of the individual as well as previous and current positions of the person concerned and
- (c) information on any notifiable convictions and a declaration that the person has not been convicted of any of the offences specified in section 12 of the Act of 2012.

The information captured by the CVR test operator during this process should be carefully assessed by the CVR test operator to determine if any issues are likely to arise from a fit and proper perspective which would (i) delay consideration of an application for renewal of an authorisation or (ii) obstruct the entitlement to hold an authorisation.

4.3 CVR test operators also have a responsibility to put in place measures to ensure that CVR testers employed or engaged by him or her are fit and proper persons to hold a CVR tester authorisation. The person concerned should be made aware of this consequence and the possible implications of withholding information or giving information knowing it to be false or misleading.

4.4 As part of the fit and proper person requirements, the 2012 Act requires an applicant for, or the holder of, an authorisation as a CVR test operator to notify the RSA if he or

she has been convicted of an offence specified in section 12(1) of the 2012 Act as follows:

- a) Murder;
- b) Manslaughter;
- c) A drug trafficking offence (within the meaning of section 3 of the Criminal Justice Act 1994);
- d) An offence under the Non-Fatal Offences against the Person Act 1997;
- e) An offence under section 2 of the Illegal Immigrants (Trafficking) Act 2000;
- f) A sexual offence (within the meaning of section 3 of the Sex Offenders Act 2001);
- g) An offence under the Criminal Justice (Theft and Fraud Offences) Act 2001;
- h) An offence under the Criminal Law (Human Trafficking) Act 2008;
- i) An offence relating to money laundering under Part 2 of the Criminal Justice (Money Laundering & Terrorist Financing) Act 2010;
- j) An offence under the Firearms Acts 1925 to 2009;
- k) An offence under the Road Safety Authority (Commercial Vehicle Roadworthiness) Act 2012;
- l) An offence relating to the fitting of a tachograph manipulation device or the improper use of a tachograph calibration certificate under the European Communities (Road Transport) (Working Conditions and Road Safety) Regulations 2008 (S.I. No 62 of 2008);
- m) An offence consisting of attempting or conspiring to commit, or aiding, abetting, counselling, soliciting, procuring or inciting the commission of any offence mentioned in paragraphs (a) to (l); and
- n) An offence under the law of another jurisdiction which corresponds to an offence mentioned in paragraphs (a) to (m), where the conduct constituting the offence under the law of that other jurisdiction would, if committed in the State, constitute an offence referred to in any of those paragraphs.

In the case of a company, each director and the company secretary must notify the RSA if he or she has been convicted of an offence specified in section 12(1) of the 2012 Act. In the case of a partnership or other unincorporated association, each partner or member, as the case may be, must notify the RSA if he or she has been convicted of an offence specified in section 12(1) of the 2012 Act.

A person who holds an authorisation as a CVR test operator or a CVR tester must notify the RSA if they have been convicted of one of the offences specified above within:

- three months of the passing of the Act ; or
- 28 days of the expiry time allowed for appealing such conviction or of the determination or withdrawal of the appeal of such conviction,

whichever is the later.

A Fit and Proper conviction notification form which should be used by CVR test operators and CVR testers to make a notification is at Appendix 1 to this leaflet. The form will also be available on the RSA website – www.rsa.ie/cvr

If a person fails to notify the RSA of a conviction for an offence specified in section 12 of the Act of 2012, or gives information to the RSA knowing it to be false or misleading, that person commits an offence. In addition, the RSA may refuse his or her application for authorisation or, in the case of a holder of an authorisation, suspend or revoke such authorisation.

5. *Testing in accordance with the authorisation*

- 5.1 Section 15(3) of the 2012 Act provides that in deciding whether or not to renew an authorisation, the RSA shall have regard “*to whether or not the CVR test operator has performed his or her functions in accordance with the authorisation*”.
- 5.2 The RSA will monitor test centre performance on an ongoing basis to assess the standard of testing and conformance with the conditions of authorisation. Issues arising and non-compliances in relation to testing, premises, equipment and any other items covered in the authorisation will be dealt with in accordance with the RSA Supervisory Policy which is available at www.rsa.ie/cvr.

CVR test operators must have systems, monitoring and management arrangements and processes in place to ensure that CVR testing is being implemented in a manner that is consistent and in compliance with the requirements of the 2012 Act, associated Regulations and the authorisation.

The RSA recommends that CVR test operators implement appropriate monitoring arrangements to ensure that testing is being conducted in accordance with relevant requirements. Quality control measures should be documented and be made available for inspection if requested. Failure to ensure high quality and consistent CVR testing may affect the processing of applications and on an ongoing basis may result in increased supervision and enforcement actions by the RSA. The CVR testing operator will be responsible for ensuring that testing is carried out in accordance with the law and the authorisation.

5.3 In order to renew your CVR test operator authorisation you must have obtained ISO 9001/CITA Recommendation 9B accreditation from an accredited ISO Certification Body and fully incorporating CITA Recommendation 9B. Once acquired, the accreditation must be maintained. In addition, CVR test operators must notify the RSA of any major non-compliances / non-conformances reported by the test centre's independent ISO/ CITA 9B certification assessor within one working day.

Recommended action:

- i. Obtain ISO 9001/CITA 9B accreditation as a priority
- ii. Implement planned and systematic actions to demonstrate CVR testing is being implemented in accordance with requirements.

6 Payment of inspection fees in certain circumstances

6.1 This section sets out the fees which may be imposed for additional inspections in relation to applications and ongoing supervision. These fees will only arise where there is a requirement for repeat inspections, so each CVR test operator can avoid these fees and additional inspections by ensuring that their application is fully complete, they meet all the requirements and that they are compliant on an ongoing basis.

6.2 As part of the consideration of applications for renewal, the RSA may, for the purposes of determining whether an applicant has or has access to, the premises and equipment, facilities, CVR testers and the appropriate management and administrative arrangements necessary, to enable CVR tests to be carried out, conduct one or more inspections of the CVR test operator premises.

No fee shall be payable by an applicant for an initial or first subsequent premises inspection. However where the RSA is required to conduct a second or subsequent inspection, the fee payable in respect of the second and each such subsequent inspection shall be the fee €200 for a half day or part thereof or €450 for a full day or more than a half day.

6.3 Where, following completion of 3 subsequent inspections after the initial inspection the RSA is not satisfied that an applicant has, or has access to, the premises and equipment, facilities, or the appropriate management and administrative arrangements necessary, to enable CVR tests to be carried out in accordance, the RSA may refuse the application.

7 Format of authorisation as a CVR test operator

7.1 In accordance with the 2012 Act, where a CVR test operator who has applied for renewal of an authorisation meets the requirements, he/she will be issued with an authorisation. The authorisation may specify a number of conditions including the following:

- a. the categories of vehicle that may be tested;
- b. the tests that may be carried out;
- c. requirements relating to the specified CVR testing centre;
- d. requirements relating to CVR testers;
- e. requirements relating to the towing and storage of vehicles to be tested;
- f. requirements relating to the use of the CVR testing centre by authorised officers and CVR inspectors for inspection and enforcement purposes;
- g. requirements relating to the installation and use of the information system (CoVIS) established under Section 28 of the Act
- h. display of the CVR test operator's authorisation at the CVR testing centre;
- i. the information to be furnished to the Authority in relation to testing;
- j. prohibition on the transfer of an authorisation; and
- k. re-imbursement of the administrative costs of
 - (i) repeated inspections
 - (ii) reconnecting the CVR information system (CoVIS) following the termination, or expiry, or a suspension of an authorisation.

An example of a general Authorisation is at www.rsa.ie/cvr.

8 Display of authorisation

CVR test operators will be required to display the authorisation issued by the RSA at their CVR testing centre.

9 Restriction on transfer of a CVR test operator authorisation

The Regulations provide that a CVR test operator authorisation shall not be transferred or assigned to another person.

However, it is proposed that the new Regulations will provide for a temporary transfer of a CVR test operator authorisation issued by the RSA to avoid hardship in circumstances where the CVR test operator, or in the case of a company, a director or company secretary or in the case of a partnership or other unincorporated association, each partner or member as the case may be, dies or becomes permanently incapacitated. The RSA should be contacted for further information about applying for the temporary transfer of an authorisation.

10 *Suspensions and revocation of authorisations*

The 2012 Act provides that the RSA may suspend or revoke a CVR test operator authorisation in particular circumstances.

The RSA may suspend an authorisation where the CVR test operator-

- i. is in breach of one or more conditions of the authorisation or has not carried out tests under the authorisation during the period of six months immediately preceeding the suspension;
- ii. is in breach of the Act, associated Regulations or guidelines;
- iii. is or has been convicted of an offence under the Safety, Health and Welfare at Work Acts 2005 and 2010;
- iv. is in breach of a direction given by an authorised officer or CVR inspector, or
- v. is no longer, having regard to Section 12 of the 2012 Act, a fit and proper person to hold and authorisation.

The RSA may revoke an authorisation where-

- (a) the person so authorised requests that his or her authorisation be revoked;
- (b) following notification of a suspension, the non-compliance has continued after the time allowed to rectify the situation; or
- (c) the RSA determines that the person so authorised is no longer, having regard to Section 12 of the 2012 Act, a fit and proper person to hold an authorisation.

CVR test operators should note that the provisions relating to suspension and revocation of CVR test operator authorisations apply with immediate effect. Please consult the draft RSA Supervision Policy at www.rsa.ie/cvr for further information.

CVR test operator (and CVR tester) authorisations will be reinstated when the grounds for suspension have been rectified on time and in full.

An authorised officer will visit a test centre as soon as practical or within five working days of the notification of the rectification. The CVR test operator may be required to pay for this visit. The CVR test operator will be notified in advance of such charges being incurred. There may also be a charge to reinstate the CoVIS system at the premises.

11 *Decisions on authorisations*

Decisions concerning suspension and revocation of authorisations as well as the issue, offer, amendment and, renewal, of authorisations will be taken by “Deciding Officers” who, in accordance with section 21 of the 2012 Act, will be designated as such by the Road Safety Authority.

Where a Deciding Officer suspends or revokes a CVR authorisation, Section 22 of the 2012 Act sets out the processes for making an appeal. An appeal must be lodged with the RSA in writing within 21 days of the date of the Deciding Officer’s decision. 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 RSA.

12 *Appeals of decisions on authorisations*

The RSA will appoint an officer of the RSA of a rank that is the same or higher than the Deciding Officer who made the decision that gave rise to the appeal, to be an “Appeals Officer” to consider and decide on the appeal. In most cases, the Appeals Officer will be assisted by an independent advisory panel in coming to a decision on the appeal. The role of the advisory panel is purely an advisory one; the determination of the appeal will be made by the Appeals Officer. Where practicable, the RSA Appeals Process will endeavour to reach a decision within one month of the appeal being lodged.

In any case where an appeal is lodged, the appellant will be informed of the procedures to apply and the option of appealing the Appeals Officer decision to the Circuit Court in the event that the original decision to suspend or revoke the authorisation is upheld by the Appeals Officer. The decision of the Appeals Officer stands suspended until the appeal to the Circuit Court has been determined or withdrawn.

The suspension or revocation remains in place until the Circuit Court either confirms the decision of the Deciding Officer or allows an appeal of his/her decision.

13 *Enforcement*

RSA authorised officers will be conducting inspections of CVR testing centres and CVR testers to monitor compliance with various requirements. Where non-compliances are detected, this will be addressed through formal and informal means depending on the nature of the non-compliance. Some non-compliances will be addressed by the provision of simple advisory information or more formal measures involving the issue of “Direction Notices” may arise in certain circumstances.

14 *Direction Notices:*

“Directions Notices” are notices issued by an authorised officer under Section 40 of the Act of 2012. A direction notice requires a CVR test operator to rectify a non-compliance. The Direction Notice will inform the CVR test operator of the non-compliance, the measures to be taken and the timeframe to rectify the non-compliance. Some Direction Notices may specify that the use of a specified piece of test equipment must cease immediately e.g. where a calibration certificate is out of date, resulting in the cessation of testing on a specified test lane. The timeframe for recommencing testing on the test lane will depend on how quickly the issue is rectified by the CVR test operator to the satisfaction of the RSA and whether it requires a re-inspection by the RSA before the test lane can be used.

Direction Notices may also be issued to CVR testers where particular non-compliance issues are identified in relation to a tester. In circumstances where a CVR tester is issued with a Direction Notice requiring the CVR tester to cease testing either immediately or within a specified timeframe, the RSA will notify the CVR test operator concerned.

Where Direction Notices result in the cessation of testing on a test lane, it will be a matter for the CVR test operator to manage arrangements with vehicle owners in relation to tests and retests.

15 Information requirements in relation to testing

The Regulations will include provisions for the submission of such information as the RSA may require in relation to testing. Much of this information will be captured via the CoVIS system but in advance of the implementation of CoVIS, this information will be required to be submitted via the current monthly returns mechanisms with any additional information being requested to be supplied to the RSA via scanned or hard copy.

CVR test operators may also be required to furnish other information relating to annual accounts, financial information, insurances, training records, document security measures, complaints etc. However, the RSA will endeavour to keep all such requests to the minimum necessary.

16 Notification of suspension of a CVR test operator authorisation

16.1 Where the RSA intends to suspend an authorisation, the RSA will notify the authorisation holder of:

- (a) the fact of the suspension;
- (b) the date that the suspension takes effect;
- (c) the non-compliance giving rise to the suspension and the time period during which the authorisation holder is to rectify the non-compliance.

The RSA may terminate a suspension and every suspension shall continue until it is terminated by the RSA.

16.2 During the period of suspension, the CVR test operator must not carry out CVR testing. The duration of the suspension will depend on the time taken by the CVR test operator to rectify the non-compliance giving rise to the suspension. Essentially a suspension has the effect of debarring the CVR test operator from conducting CVR testing for the period that the suspension remains in force.

Where a CVR test operator's authorisation is suspended for a period, it may be necessary, in the interest of customer service for vehicle owners to have the vehicle tested at an alternative CVR testing centre. It will be a matter for the CVR test operator to notify the vehicle owners accordingly.

16.3 Where a CVR test operator's authorisation is suspended or where a direction is issued by an authorised officer or CVR inspector such that the CVR test operator must cease testing (whether in relation to a particular item of equipment, a particular test lane or otherwise) until a non-compliance is rectified, then it may be appropriate that the vehicle in question should be submitted for a CVR test at an alternative CVR test centre. To the extent that any fee has been paid by the owner of the CVR vehicle to the CVR test operator who cannot, by reason of a direction or suspension, carry out the required CVR test, such fee should be repaid to the owner to enable him or her to arrange for a CVR test to be carried out at an alternative CVR testing centre. The repayment or otherwise of the fee paid is a matter between the CVR test operator and the vehicle owner.

16.4 When a CVR test operator's authorisation is suspended, this information will be recorded on the register of CVR test operators established under section 29 of the 2012 Act.

17 *Convictions for offences of Safety, Health and Welfare at Work Acts*

One of the grounds for suspension of a CVR test operator authorisation is a conviction of the authorisation holder for an offence under the Safety, Health and Welfare at Work Acts 2005 and 2010. If CVR test operators (or CVR testers) require advice and guidance on the requirements of health and safety legislation, they should contact the Health and Safety Authority.

CVR test operators should note that they will be asked for information (whether as part of an application for renewal of an authorisation or during the term of an authorisation) about any convictions under the Safety, Health and Welfare at Work Acts 2005 and 2010.

18 *Disclosure of interest in vehicles*

The new Regulations provide that a CVR test operator shall not carry out, or cause to be carried out, a CVR test on a vehicle where the CVR test operator or a "connected person" (see below for an explanation of this term) has a legal or beneficial interest in the CVR vehicle, unless the CVR test operator gives details of the proposed test to the RSA at least 2 working days prior to the conduct of the test. In advance of the

implementation of CoVIS, CVR test operators must notify the RSA using the form in Appendix 2. The form is available on the RSA website and when completed can be sent via email to CVTadmin@rsa.ie

The RSA may suspend the authorisation of a CVR test operator who fails to notify the RSA of a legal or beneficial interest that they, or a “connected person”, has in a CVR vehicle.

A connected person in relation to a CVR test operator or a CVR tester is –

- a. that person’s spouse, civil partner, parent, brother, sister or child;
- b. a person acting in his or her capacity as the trustee of any trust, the principal beneficiaries of which are the CVR test operator or CVR tester, as the case may be, his spouse or any of his children or any body corporate controlled by such CVR test operator or CVR tester; or
- c. in partnership with that CVR test operator or CVR tester.

19 Prohibition on CVR testers testing vehicles in which they have a material interest

In addition, the new Regulation prohibits a CVR tester from carrying out a CVR test on a CVR vehicle where the CVR tester concerned has carried out any repairs or maintenance in respect of that CVR vehicle, including the preparation of the CVR vehicle for the CVR test.

Under no circumstances shall a CVR tester carry out a CVR test on a CVR vehicle where the CVR tester or a connected person has a legal or beneficial interest in the vehicle

20 Drugs and alcohol at work

A CVR test operator shall take all reasonable steps to ensure that a person who is under the influence of an intoxicant (including alcohol or drugs or a combination of both alcohol and drugs) to the extent that he or she is in such a state as to endanger his or her own safety, health or welfare at work or that of any other person does not carry out CVR tests or ADR tests at the CVR testing centre. Further information concerning employers obligations in relation to health and safety matters is available from the Health and Safety Authority

21 Attendance at training courses

CVR test operators are required to attend specified training courses in relation to CVR testing. Attendance at these courses is mandatory. Existing CVR test operators are required to attend a CVR test operator (CPD) training 1 day course every other year. Where a CVR test operator fails to attend a specified training course, this may be grounds for the suspension of an authorisation.

22 ADR requirements

The RSA will accept applications from Heavy Commercial Vehicle test operators seeking to become ADR testing operators subject to a number of requirements including tester training, satisfactory performance management and the completion of a detailed risk assessment of the testing centre. Contact the RSA for further information in relation to the requirements. The legal framework for ADR testing is being finalised but the RSA intends to assist interested applicants in preparing the groundwork to submit an application for authorisation as an ADR test operator while the necessary legal changes are being implemented.

23 Roll-out of CoVIS

It is anticipated that the CVR information system (CoVIS) will be rolled out in the third quarter of 2013; the RSA will be contacting all CVR test operators in relation to the system in due course.

The CoVIS system is the integrated I.T. system which will underpin CVR testing. Once CoVIS is established, CVR test operators must be connected to the system to be able to carry out tests. Following the introduction of CoVIS, certificates of roadworthiness will be issued centrally by the RSA. Motor Tax Offices will no longer issue certificates of roadworthiness once the CoVIS system is in place.

Each CVR test operator should continue to engage with the CoVIS contractor to ensure that their premises and test equipment can be connected to CoVIS

24 Further information

Contact the RSA for information at CVRauthorisations@rsa.ie or alternatively contact the RSA Customer Care Centre at 1890 406040 if you require any clarification in relation to the above. You should also visit the RSA website concerning updates in

relation to the RSA “frequently asked questions” which is being continuously updated in the light of queries and issues being raised by CVR test operators and CVR testers.

Appendix 1– Fit and Proper Assessment

Conviction Notification Form

Full name of person convicted			
Address			
Home telephone number		Mobile:	
Email			
Date of birth		PPS number	
CVR test operator authorisation number (if relevant)		CVR tester authorisation number (if relevant)	
Position	(for example, partner, director, secretary), if relevant		

Date of the offence		
Which of the offences (a) to (n) listed in Section 12 of the RSA (Commercial Vehicle Roadworthiness) 2012 were you convicted of?		
Where was the offence committed?		
Ireland	<input type="checkbox"/>	Other country
Specify county		Specify country
Was the offence committed in the course of, or in connection with, a business concerned with the testing, inspection, maintenance or repair of vehicles?	<div> <div>No</div> <div><input type="checkbox"/></div> <div>Yes</div> <div><input type="checkbox"/></div> </div>	
If Yes, please provide details		
Date of conviction		
Details of the Court in which you were convicted (including address details)		

Details of any sentence imposed	
Details of any fine imposed on foot of the conviction	
Details of any disqualification or forfeiture imposed on foot of the conviction	
Is this conviction one of a number of convictions for the same or different offences? If Yes, please provide details	<div> <div>No</div> <div><input type="checkbox"/></div> </div> <div> <div>Yes</div> <div><input type="checkbox"/></div> </div>

I hereby declare that the information provided by me in this notification is true, complete and accurate.

Signature	
Date of signature	

Please complete in **BLOCK CAPITALS**

Signature _____

Date:

THE COMPLETED FORM MUST BE SUBMITTED AT LEAST 2 WORKING DAYS BEFORE THE PROPOSED TEST. YOU MUST NOTIFY THE ROAD SAFETY AUTHORITY IF THE PROPOSED TEST IS POSTPONED OR CANCELLED

SEND THE FORM TO RSA VIA EMAIL AT CVTadmin@RSA.IE OR VIA FAX 091 872660

A CVR TESTER SHALL NOT CARRY OUT A CVR TEST ON A CVR VEHICLE WHERE THE CVR TESTER OR A CONNECTED PERSON HAS A LEGAL OR BENEFICIAL INTEREST IN THE VEHICLE

¹ A connected person in relation to a CVR test operator is –

- a. that person's spouse, civil partner, parent, brother, sister or child;
- b. a person acting in his or her capacity as the trustee of any trust, the principal beneficiaries of which are the CVR test operator (or CVR tester, as the case may be) his spouse or any of his children or any body corporate controlled by such CVR test operator or CVR tester; or
- c. a person in partnership with that CVR test operator or CVR tester.