



Tástáil Ródacmhainneachta um Fheithiclí Tráchtála
Commercial Vehicle Roadworthiness Testing

CVR TESTER AUTHORISATIONS FOR EXISTING TESTERS

“GETTING THINGS RIGHT AT THE CVR TESTER LEVEL”

Contents

1	Introduction.....	3
1.1	Overview.....	3
1.2	Purpose of this leaflet	3
1.3	Cautionary Notes.....	3
2	Information and time-lines for making an application for authorisation as a CVR tester	4
2.1	Expiry of CVR tester authorisations:.....	4
2.2	What happens if my CVR tester authorisation expires?	4
3	The CVR tester application for authorisation process.....	4
4	Steps to be taken for submission of an application form for authorisation as a CVR tester.	5
5	Meeting the qualifications and experience requirements to be an authorised CVR tester	5
6	Meeting fit and proper person requirements	7
7	How to make a notification of a conviction of specified offences?	8
8	Consequences of failing to make a notification of conviction of specified offences	9
9	Suspension and revocation of authorisations:	9
10	Decisions on authorisations.....	10
11	Appeals of decisions on authorisations	10
12	Enforcement	11
13	Direction Notices:	11
14	Further information.....	11
	Appendix 1– Fit and Proper Assessment.....	12
	Conviction Notification Form	12

1 Introduction

1.1 Overview

This leaflet is published by the Road Safety Authority for testers who are currently on the register of “trained persons” maintained by the Local Authorities authorised to conduct commercial vehicle tests. As a consequence of Section 17 of the Road Safety Authority (Commercial Vehicle Roadworthiness) Act 2012, a person who is on the register maintained by a Local Authority immediately before the commencement of Section 17 of the Act of 2012 is authorised as a CVR tester for **a transition period of 18 months**.

The Road Safety Authority will be contacting each person on the register of “trained persons” immediately on the commencement of section 17 of the Act of 2012 to notify them about being authorised as a CVR tester for the transition period.

1.2 Purpose of this leaflet

The purpose of this leaflet is to assist CVR testers in “Getting things right at the CVR tester level” in relation to:-

- (a) applying for their authorisations to continue testing after the 18 month transition period referred to above;
- (b) identifying key actions that CVR testers should take in order to avoid delays and other issues in relation to their CVR tester authorisation.
- (c) complying with the requirements of the 2012 Act, regulations made under the 2012 Act and guidelines issued by the RSA; and
- (d) ensuring that CVR testers are informed of key legal requirements which will impact on the issue and amendment of a CVR tester authorisation.

1.3 Cautionary Notes

The information in this leaflet is based on:

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

This leaflet provides a summary only of certain key requirements and is intended to assist CVR testers in understanding and meeting their legal obligations in relation to

CVR tester authorisations. *This leaflet does not provide legal advice in relation to the 2012 Act or the Regulations.*

2 Information and time-lines for making an application for authorisation as a CVR tester

2.1 Expiry of CVR tester authorisations:

In accordance with section 17(3) of the 2012 Act, all CVR tester authorisations will expire at the end of an 18 month transition period. Each CVR tester will be informed by the RSA of the start date and end date for their CVR tester authorisation.

In order to continue as a CVR tester **after** the 18 month transition period, you must have had your application for authorisation as a CVR tester processed by the RSA and you must have obtained a permanent authorisation as a CVR Tester under 2012 Act.

In order to ensure that your application is processed on time, the RSA requires you to submit your application for authorisation **within 12 months after the commencement of the transition period.** This is to allow the RSA adequate time to process applications from all CVR testers.

Please bear in mind that there are legal processes to be followed in the consideration of applications and these will take time to complete.

If you do not apply for the authorisation as a CVR tester in good time, you risk that your application will not have been processed before the expiry date of your transitional authorisation as a CVR tester.

2.2 What happens if my CVR tester authorisation expires?

If your CVR tester authorisation **expires**, you will **no longer be able to carry out CVR tests**.

Note: It is an offence under the 2012 Act to carry out CVR tests if a person is not authorised to do so.

3 The CVR tester application for authorisation process

The instructions in this leaflet set out the basic steps you will need to know to complete an application for authorisation as a CVR tester and to satisfy the authorisation requirements. If any required documents are missing or an application

form is not correctly completed the application will be returned to you. Applications will be categorised as being “valid” upon receipt of a properly completed form and all supporting documentation is received. 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.

4 Steps to be taken for submission of an application form for authorisation as a CVR tester.

In line with the 2012 Act, applicants must comply with certain requirements as follows:

- (a) submission of a fully completed application form and any accompanying documents (including a passport size photograph);
- (b) meeting the necessary qualifications/experience requirements to validly conduct tests; and
- (c) being a fit and proper person

The application form for authorisation as a CVR tester will provide further information regarding the above requirements. The application form will be downloadable from the RSA website at www.rsa.ie/cvr at the time you are notified of your transitional authorisation as a CVR tester.

5 Meeting the qualifications and experience requirements to be an authorised CVR tester

5.1 For the purposes of a CVR tester authorisation you will need to meet the requirements specified in the 2012 Act and regulations made under the 2012 Act in relation to CVR tester qualification, experience and training.

There are two possible ways in which a CVR tester can meet the qualification requirements specified in the CVR Authorisation Regulations. When you are applying for authorisation, you will be asked to select which particular option applies to you.

The options are as follows:

Option 1: CVR testers who **have** a Senior Trade Certificate/National Craft Certificate to at least FETAC Level 6 in the skill area of Light Commercial Vehicle (LCV)¹, Heavy Commercial Vehicle (HCV)², Agricultural or Construction Mechanic or equivalent qualification.

Option 2: CVR testers who do **not have evidence of** a Senior Trade Certificate/National Craft Certificate referred to in Option 1 but who satisfy the qualification requirements on the basis of experience as a CVR tester and mechanic.

5.2 If you are a CVR tester who **has** the specified Senior Trade Certificate/National Craft Certificate, **you** will be asked to confirm this. You will also be required to confirm that:

- (a) you have completed the required refresher training (also called CPD) for a CVR tester and have attended a tester's training course in each of the past three calendar years; and
- (b) you are currently working as a CVR tester at a CVR testing centre.

The Road Safety Authority reserves the right to seek additional information from you, including evidence that you are the holder of the specified Senior Trade Certificate/National Craft Certificate.

5.3 If you are a CVR **tester who does not** have the specified Senior Trade Certificate/National Craft Certificate, you will be asked to:-

- a) confirm that you have completed the required refresher training (also called CPD) for a CVR tester and attended a tester's training course in each of the past three calendar years;
- b) confirm that you are currently working as a CVR tester at a CVR testing centre; and
- c) provide details of experience as a vehicle tester and as a mechanic.

The Road Safety Authority reserves the right, as part of its assessment of an application, to seek additional information from you, including in relation to past employment as a commercial vehicle tester and/or as a mechanic

Please note that the Road Safety Authority may require that an applicant tests CVR vehicles under supervision as part of the assessment of an application.

¹ Light Commercial Vehicle (LCV) - previously referred to as LGV

² Heavy Commercial Vehicle (HCV) – includes HGV and PSV passenger vehicles

6 Meeting fit and proper person requirements

6.1 The 2012 Act introduced a “fit and proper person” requirement and this represents an important part of the CVR tester authorisation arrangements being implemented by the Road Safety Authority.

The fit and proper person requirements are designed to ensure that key personnel involved with the testing of CVR vehicles are suitable persons to ensure the delivery of a high quality CVR testing service and outcomes for CVR vehicle owners and the wider public. 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.

6.2 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 tester 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)

- 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.

6.3 A person who holds an authorisation as a CVR tester is required to notify the RSA if they have been convicted of one of the offences specified above within:

- three months of the passing of Section 12 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 latest.

Therefore as the holder of a CVR tester authorisation, you are required to notify the RSA, if you have been convicted of any of the offences specified in the 2012 Act.

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.

7 How to make a notification of a conviction of specified offences?

You only make a notification if you have been convicted of any of the offences listed above. A copy of the notification form is at appendix I.

If you have not been convicted of any of the specified offences, there is no need to make a notification.

8 Consequences of failing to make a notification of conviction of specified offences

It is an offence under Section 12(6) of the 2012 Act for a person to fail to notify information in relation to the convictions (listed in Section 6.2 above) specified in Section 12(1) of the Act or for a person to notify information knowing it to be false or misleading. A person found guilty of an offence under Section 12(6) of the 2012 Act is liable to be fined by a Court as well as to a term of imprisonment.

In addition to the possible criminal penalties, where a person fails to make a notification in accordance with the Act, the RSA may determine that the person is not a fit and proper person to hold an authorisation. If the RSA determines that a person is not a fit and proper person to hold an authorisation, the RSA may refuse his or her application for authorisation or suspend or revoke an existing authorisation.

9 Suspension and revocation of authorisations:

The 2012 Act provides that the RSA may suspend or revoke a CVR tester authorisation in particular circumstances. The RSA may suspend an application where the CVR tester -

- 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 preceding 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 testers should note that the provisions relating to suspension and revocation of CVR tester authorisations apply with immediate effect and apply from the beginning of the 18 month transition period.

10 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 tester 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.

11 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.

12 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.

13 Direction Notices:

“Directions Notices” are notices issued by an authorised officer under Section 40 of the Act of 2012. A direction notice issued to a CVR tester requires the tester concerned to rectify a non-compliance. The Direction Notice will inform the CVR tester of the non-compliance, the measures to be taken and the timeframe to rectify the non-compliance. Some Directions Notices issued to a CVR tester may require the immediate cessation of testing on a specified test lane or possibly to cease testing. The timeframe when the CVR tester will be allowed to recommence testing will depend on how quickly the issue is rectified by the CVR tester (and perhaps the CVR test operator) to the satisfaction of the RSA.

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.

14 Further information

If you require any clarification in relation to the above please contact the RSA Customer Service by telephone at 1890 40 60 40. You should also visit the RSA website www.rsa.ie/cvr 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	<input type="checkbox"/>
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	