



NCN: [2025] UKFTT 00345 (GRC)

Case Reference: FT/D/2024/0831

First-tier Tribunal  
General Regulatory Chamber  
Transport

Determined on: 12 March 2025  
Decision given on: 21 March 2025

Before

TRIBUNAL JUDGE KENNETH MULLAN

Between

SUSAN ARMSTRONG

Appellant

and

REGISTRAR OF APPROVED DRIVING INSTRUCTORS

Respondent

**Representation:**

For the Appellant:	Considered and determined on the papers alone
For the Respondent:	Considered and determined on the papers alone

**Decision:** The appeal is REFUSED

## DECISION

1. The appeal is refused.

## MODE OF HEARING

2. In section 9.1 of her completed notice of appeal, the Appellant ticked a box to indicate that she wished her appeal to be determined without a hearing. Accordingly, I considered and determined the appeal in my Chambers and no other party was present.

## BACKGROUND

3. This appeal is from a trainee driving instructor who was granted two trainee licences under s.129 of the Road Traffic Act 1988 ("the Act") and was then refused a further licence at the end of the 12 months' period. A licence under s.129(1) is granted "for the purpose of enabling a person to acquire practical experience in giving instruction in driving motor cars with a view to undergoing ..... such part of the examination ..... as consists of a practical test of ability and fitness to instruct".
4. The circumstances in which trainee licences may be granted are set out in s.129 of the Act and in the Motor Cars (Driving Instruction) Regulations 2005 ("the Regulations"). In order to qualify as an approved driving instructor an applicant must pass the qualifying examination, which is in three parts: the written examination; the driving ability and fitness test; and the instructional ability and fitness test (see reg.3(2)). Each part must be passed in the stated order and before the next part is attempted. Three attempts at each part are permitted but the whole examination must be completed within two years of passing the written examination (but subject to reg.3(4)(c) which permits a further attempt at the Part Three test outside the period if the booking was made within it). Failure so to complete requires the whole examination to be retaken. A trainee licence may be granted under s.129 of the Act once the driving ability and fitness test has been passed. The holding of a trainee licence is not a prerequisite to qualification; on the contrary, many applicants qualify without having held such a licence.
3. It is self-evident that the grant of a trainee licence enables applicants to instruct for payment before they are qualified. The Appellant did so and failed to pass the instructional ability and fitness test within the 12 months' period. The Appellant applied for a further licence prior to the end of this period and by s.129(6) of the Act "where a person applies for a new licence in substitution for a licence held by him and current at the date of application, the previous licence shall not expire ..... until ..... an appeal is finally disposed of". The effect of this is that the Appellant has been able to continue to instruct under her licence, despite the expiry dates. Of course, if prior to disposal of the appeal she passes the instructional ability and fitness test, she then ceases to be a trainee and is no longer eligible for a further trainee licence. If on the other hand she fails this test after three attempts, the appeal is itself also bound to fail since by reg.13(2)(d) of

the Regulations a further trainee licence may not be granted if the instructional ability and fitness test has been failed “more than twice”.

4. When the Appellant applied for a trainee licence she signed an application form, which included a declaration that she had read the Department’s booklet ADI 14. This booklet contained the following advice:

“If you are not using the licence for any reason, you should return it to us. Although you will not receive a refund for lost training time, we will know that you have not had full use of the licence and this will be a factor in deciding whether to issue a subsequent licence.”

5. In the Statement of Case, prepared for the appeal, the Registrar gave the following general reasons for refusal:

“(i) The purpose of the provisions governing the issue of licences is to afford applicants the opportunity of giving instruction to members of the public whilst endeavouring to achieve registration. The system of issuing licences is not and must not be allowed to become an alternative to the system of registration;

(ii) The licence granted to applicants is not to enable the instructor to teach for however long it takes to pass the examinations, but to allow up to six months experience of instruction. This provides a very reasonable period in which to reach the qualifying standard in the examination and, in particular, to obtain any necessary practical experience in tuition. Moreover, by virtue of the Appellant having applied for a third licence before the expiry date of the second, that licence has remained in force to the present time and will allow her to continue to give paid instruction until determination of the appeal.”

6. In addition, the Registrar added further reasons which were specific to the individual case. Those discrete reasons are set out in below

7. Two licences were granted to the Appellant under section 129 of the Act for the purposes of enabling her to undergo the examination of her ability to give instruction in the driving of motor cars and were valid from 4 September 2023 to 3 September 2024. On 26 August 2024 the Registrar received an application from the Appellant for a third licence. Following notification to the Appellant that the Registrar was considering the refusal of her application for the second licence, the Appellant made representations to the Registrar. After considering those representations, the Registrar decided to refuse the application and notified the Appellant of that decision by way of correspondence dated 24 September 2024. The Appellant has appealed against the decision dated 24 September 2024.

8. In the Statement of Case the Registrar has set out the reasons for the refusal of the application. These included the general reasons set out in paragraph 5 and the following reasons specific to this Appellant:

- Since passing her driving ability test the Appellant has failed the instructional ability test twice. Despite ample time and opportunity the Appellant has not been able to reach the required standard for qualification as an Approved Driving Instructor; and

- The refusal of a third licence does not bar the Appellant from attempting the instructional ability test of the Register examinations. She does not need to hold a licence for that purpose, nor is it essential for her to give professional tuition under licence in order to obtain further training. The Appellant could attend a training course, or study and practice with an Approved Driving Instructor or give tuition on her own (provided that she does not receive payment of any kind for this). These alternatives are used by some trainees who acquire registration without obtaining any licences at all.
9. I have a copy of the DSA print-out, which shows that the Appellant failed the Part III test on 29 January 2024 and 15 July 2024.
  10. In her written representations to the Registrar, dated 3 September 2024, the Appellant made the following submissions:
 

I am writing to request a mandatory reconsideration of your decision as per the letter received from you on the 28 August 2024 stating that my application is being considered for refusal.

My reasons for applying for the third licence are I have taken 2 attempts at the part 3 test but have been unable to get a test date for the third attempt until after my second licence expires. I have had my third attempt on hold since 15 July 2024 but my licence expires 3 September 2024. Due to the lack of tests in my area I have not had the opportunity to take the test again. I feel a new licence will give me the time to continue my training towards my next part 3 test,
  11. In her notice of appeal, dated 30 September 2024, the Appellant made the following submissions:
 

‘Due to the lack of part 3 tests in my area. its taking a couple of months to get a test date after the test has been on hold.

I have undertaken additional training but haven't received a new part 3 test date yet.

I feel with the additional training and extra time on a PDI Licence will enable me to pass the part 3 test.’

## **REASONS**

12. As at the date of this decision the Appellant had had the benefit of a Trainee Licence for close to 19 months. In my judgment she has now had more than enough time in which to gain practical experience in giving instruction. I have noted that the Appellant’s second failure of the Part III test was on 15 July 2024. In her notice of appeal, dated 20 September 2024, she submitted it was taking two months to get a test date. It is clear that by the date of this decision, over six months since the date of the notice of appeal, the Appellant has not made a further booking for her final attempt at the Part III test. As was noted in paragraph 3 above, if prior to disposal of the appeal the Appellant passes the instructional ability and fitness test, she then ceases to be a trainee and is no longer eligible for a further trainee licence. If on the other hand she fails this test after three attempts, the appeal is itself also bound

to fail since by reg.13(2)(d) of the Regulations a further trainee licence may not be granted if the instructional ability and fitness test has been failed “more than twice”.

13. As was noted by the Registrar, the refusal of a third licence does not bar the Appellant from attempting the instructional ability test of the Register examinations. She does not need to hold a licence for that purpose, nor is it essential for her to give professional tuition under licence in order to obtain further training. The Appellant could attend a training course, or study and practice with an Approved Driving Instructor or give tuition on her own (provided that she does not receive payment of any kind for this). These alternatives are used by some trainees who acquire registration without obtaining any licences at all.
14. The Registrar has noted that when the Appellant applied for a trainee licence, she signed an application form, which included a declaration that she had read the Department’s booklet ADI 14. In turn the booklet contained advice that if the Appellant was not using the licence for any reason, it should be returned to the DSA. She was informed that this would mean that ‘...we will know that you have not had full use of the licence, and this will be a factor in deciding whether to issue a subsequent licence.’ The Appellant chose not to return his licence.
15. I uphold the Registrar’s decision and accept and endorse the reasons given for that decision by the Registrar as set out in the Statement of Case. Accordingly, the appeal is dismissed with immediate effect.



**Kenneth Mullan**  
**Judge of the Upper Tribunal**  
**20 March 2025**