

**2005 No.**

**HEALTH AND SAFETY**

**The Railways and Other Guided Transport Systems (Safety)  
Regulations 2005**

<i>Made</i>	- - - -	2005
<i>Laid before Parliament</i>		2005
<i>Coming into force</i>		
<i>for the purposes of regulations [ ]</i>		1 ]2005
<i>for the purposes of regulations [ ]</i>		1 <sup>st</sup> October 2005

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The Secretary of State, in exercise of the powers conferred upon him by sections 15(1), (2), (3)(a), (4), (5)(b), (6)(b), 80, 82(3)(a) of, and paragraphs 1(1)(a) and (c), 1(2), 6(1) and (2), 7, 8(1), 9, 14, 15(1) and 16 of Schedule 3 to, the Health and Safety at Work etc. Act 1974(a) (“the 1974 Act”) and of all other powers enabling him in that behalf and for the purpose of giving effect without modifications to proposals submitted to him by the Health and Safety Commission under section 11(2)(d) of the 1974 Act after the carrying out by the said Commission of consultations in accordance with section 50(3) of that Act, hereby makes the following Regulations:

## PART 1

### INTRODUCTION

#### Citation and commencement

1. These Regulations may be cited as the Railways and Other Guided Transport Systems (Safety) Regulations 2005 and shall come into force—

- (a) for the purposes of regulations [ ] on [ 2005 ]; and
- (b) for the purposes of regulations [ ] on 1<sup>st</sup> October 2005.

#### Interpretation and application

2.—(1) In these Regulations—

“building operation” means the—

- (a) construction, structural alteration, repair or maintenance of a building and maintenance shall include repainting, redecoration and external cleaning of the structure;
- (b) demolition of a building; or
- (c) preparation for and laying the foundation of an intended building,

but does not include any operation which is a work of engineering construction;

“carriageway” has the same meaning as in the Highways Act 1980(b), or in Scotland the Roads (Scotland) Act 1984(c);

“common safety methods” (“CSMs”) means the methods to be developed, pursuant to article 6 of the Directive, to describe how—

- (a) safety levels;
  - (b) achievement of safety targets; and
  - (c) compliance with other safety requirements,
- are assessed;

“common safety targets” (“CSTs”) means the safety levels, to be developed pursuant to article 7 of the Directive, that must be reached by—

- (a) different parts of the mainline railway system; and
- (b) that system as a whole,

expressed in risk acceptance criteria;

“conventional Directive” means Council Directive 2001/16 of the European Parliament and of the Council of 19<sup>th</sup> March 2001 on the interoperability of the conventional rail system(d);

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(a) 1974 c.37; sections 15 and 50 were amended by the Employment Protection Act 1975 (c.71), Schedule 15, paragraphs 6 and 16 respectively; the general purposes of Part I referred to in section 15(1) were extended by section 117 of the Railways Act 1993 (c.43).

(b) 1980 c.66.

(c) 1984 c.54.

(d) O.J. No. L110, 20.04.2001, p1, as amended by Directive 2004/50/EC of the European Parliament and the Council of 29<sup>th</sup> April 2004 (O.J. No. L164, 30.04.2004, p114).

“deemed safety authorisation” shall be construed in accordance with paragraph 1(b) of Schedule 5;

“deemed safety certificate” shall be construed in accordance with paragraph 1(a) of Schedule 5;

“the Directive” means Directive 2004/49/EC of the European Parliament and of the Council of 29<sup>th</sup> April 2004 on safety on the Community’s railways and amending Council Directive 95/18/EC on the licensing of railway undertakings and Directive 2001/14/EC on the allocation of infrastructure capacity and the levying of charges for the use of infrastructure and safety certification(a);

“engineering possession” means a section of track which is closed to normal traffic and where the closure is for the purpose of carrying out maintenance which shall include any repair alteration, reconditioning, examination or testing of infrastructure;

“European Railway Agency” means the Community agency for railway safety and interoperability established by Regulation (EC) No. 881/2004 of the European Parliament and of the Council of 29<sup>th</sup> April 2004 establishing a European Railway Agency(b);

“factory” means a factory within the meaning of section 175 of the Factories Act 1961(c) and premises to which section 123(1) or (2) or 125(1) of that Act applies;

“guided bus system” means a system using vehicles which are capable of operating on a road and which are guided wholly or mainly by means of–

- (a) a cable, wire or other device which is not in direct physical contact with the vehicles;
- (b) a single rail or slot; or
- (c) wheels bearing inwards or outwards against fixed apparatus;

“guided transport” means transport by vehicles guided by means external to the vehicles (whether or not they are also capable of being operated in some other way);

“harbour” and “harbour area” have the meanings assigned to them by regulation 2(1) of the Dangerous Substances in Harbour Areas Regulations 1987(d);

“high-speed Directive” means Council Directive 96/48/EC of 23<sup>rd</sup> July 1996 on the interoperability of the trans-European high-speed rail system(e);

“infrastructure” means fixed assets used for the operation of a transport system which shall include, without prejudice to the generality of the foregoing–

- (a) its permanent way or other means of guiding or supporting vehicles;
- (b) any station; and
- (c) plant used for signalling or exclusively for supplying electricity for operational purposes to the transport system;

“infrastructure manager” means the person who–

- (a) in relation to infrastructure other than a station, is responsible for developing and maintaining that infrastructure or, in relation to a station, the person who is responsible for managing and operating that station, except that it shall not include any person solely on the basis that he carries out the construction of that infrastructure or station or its maintenance, repair or alteration; and
- (b) manages and uses that infrastructure or station, or permits it to be used, for the operation of a vehicle;

“mainline application” means an application for–

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(a) O.J. No. L164 of 30.04.04, p.44; the references to the Directives amended by the 2004 Directive are [ ].  
(b) OJ No. L164 of 30.04.04, p1.  
(c) 1961 c.34; subsection (2)(n) of section 175 was amended by the Factories Act 1961 etc. (Metrication Regulations 1983 (S.I. 1983/978), regulation 3(1) and Schedule 1.  
(d) S.I. 1987/37 to which there are amendments not relevant to these Regulations.  
(e) O.J. No. L235, 17.0.9.97, p6, corrected by O.J. L262, 16.10.96, p8 and as amended by Directive 2004/50/EC of the European Parliament and the Council of 29<sup>th</sup> April 2004 (O.J. No. L164, 30.04.2004, p114)

- (a) a safety certificate or an amended safety certificate; or
- (b) a safety authorisation or an amended safety authorisation,  
made in relation to an operation on the mainline railway;

“mainline railway” means any railway except for any railway or part of a railway–

- (a) the infrastructure and rolling stock of which are reserved strictly for–
  - (i) a local or historical use;
  - (ii) the purposes of tourism; or
- (b) the infrastructure of which is functionally isolated from any other railway which does not fall within sub-paragraph (a);

“mainline railway system” means the mainline railway and the management and operation of the mainline railway as a whole;

“material” includes plant;

“military establishment” means an establishment intended for use for naval, military or air force purposes or for the purposes of the Department of the Secretary of State responsible for defence;

“mine” has the meaning assigned to it by section 180 of the Mines and Quarries Act 1954(a);

“national safety rules” means any legislation and other requirements–

- (a) applicable to the whole of Great Britain; and
- (b) which contain requirements (including common operating rules) relating to railway safety which are imposed on more than one railway undertaking,

except that where the requirements in sub-paragraph (b) consist of common operating rules of the mainline railway it shall not include such rules which regulate matters which are covered by a TSI;

“non-mainline application” means an application for–

- (a) a safety certificate or an amended safety certificate; or
- (b) a safety authorisation or an amended safety authorisation,

made in relation to an operation on a transport system other than the mainline railway;

“Part A of a safety certificate” means that part of a safety certificate certifying the matters set out in regulation 7(4)(b)(i) and related expressions shall be construed accordingly;

“Part B of a safety certificate” means that part of a safety certificate certifying the matters set out in regulation 7(4)(b)(ii) and related expressions shall be construed accordingly;

“quarry” has the meaning assigned to it by regulation 3 of the Quarries Regulations 1999(b);

“railway” means a system of transport employing parallel rails which–

- (a) provide support and guidance for vehicles carried on flanged wheels; and
- (b) form a track which either is of a gauge of at least 350 millimetres or crosses a carriageway (whether or not on the same level),

but does not include a tramway;

“relevant infrastructure or vehicle” means any new or altered–

- (a) infrastructure; or
- (b) vehicle,

falling within regulation 29(1) and related expressions shall be construed accordingly;

“relevant infrastructure manager” means the infrastructure manager for any infrastructure used in relation to the operation in question;

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(a) 1954 c.70; section 180 was amended by S.I. 1974/2013, 1993/1897 and 1999/2024.  
(b) S.I. 1999/2024, to which there are amendments not relevant to these Regulations.

“risk” means in Parts 1 and 2 a risk to the safety of a person;

“road” means in the definition of “guided bus system” and in sub-paragraph (b) of the definition of transport system–

- (a) in England and Wales any length of highway or of any other road to which the public has access, and includes bridges over which a road passes; and
- (b) in Scotland has the same meaning as in the Roads (Scotland) Act 1984;

“rolling stock” has the meaning in section 83(1) of the Railways Act 1993(a);

“ROTS” means the Railways and Other Transport Systems (Approval of Works, Plant and Equipment) Regulations 1994(b);

“safety authorisation” means a safety authorisation issued by the Executive in accordance with regulation 10 or 12;

“safety authority” means–

- (a) as regards a member State other than the United Kingdom, the authority established in that State in accordance with article 16.1 of the Directive;
- (b) as regards Great Britain, the Executive; and

“safety certificate” means a safety certificate issued by the Executive in accordance with regulation 7 or 9;

“safety management system” means the organisation and arrangements established by a transport operator to ensure the safe management of its operation;

“station” means a passenger stop, station or terminal on a transport system but does not include any permanent way or other means of guiding or supporting vehicles or plant used for signalling or exclusively for supplying electricity for operational purposes to a transport system;

“street” has the meaning in section 67(1) of the Transport and Works Act 1992;

“technical specifications for interoperability” (“TSIs”) means technical specifications for interoperability which are published in the Official Journal of the European Communities pursuant to–

- (a) article 6.1 of the high-speed Directive; or
- (b) article 6.1 of the conventional Directive, and in force;

“train” includes any rolling stock;

“tramway” means a system of transport used wholly or mainly for the carriage of passengers–

- (a) which employs parallel rails which–
  - (i) provide support and guidance for vehicles carried on flanged wheels;
  - (ii) are laid wholly or partly along a street or in any other place to which the public has access (including a place to which the public has access only on making a payment); and
- (b) on any part of which the permitted maximum speed is such as to enable the driver to stop a vehicle in the distance he can see ahead in clear weather conditions;

“transport operator” means any transport undertaking or infrastructure manager;

“transport system” means a railway, a tramway, a trolley vehicle system or any other system using guided transport where that other system is used wholly or mainly for the carriage of passengers but a transport system does not include–

- (a) [a guided bus system;]
- (b) [a trolley vehicle system to the extent that it operates on a road];

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(a) 1993, c.43.

(b) S.I. 1994/157 as amended by SIs 1997/553, 2002/1166 and S.I. 2004/129.

- (c) any part of a transport system—
  - (i) within a harbour or harbour area or which is part of a factory, mine or quarry;
  - (ii) used solely for the purpose of carrying out a building operation or work of engineering construction;
  - (iii) within a maintenance or goods depot, or
  - (iv) which is within a military establishment;
- (d) any fairground equipment;
- (e) any cableway installation which falls within sub-paragraphs (c)(i) and (ii) of the definition of “cableway installation” in regulation 2(5) of the Cableway Installations Regulations 2004(a); or
- (f) any transport system where the track forms a gauge of less than 350mm except where such a track crosses a carriageway (whether or not on the same level),

except where the transport system in question forms part of the mainline railway;

“transport undertaking” means any person who operates a vehicle in relation to any infrastructure but shall not include a person who operates a vehicle solely within an engineering possession;

“trolley vehicle system” means a system of transport by vehicles constructed or adapted for use on roads without rails under electric power transmitted to them by overhead wires (whether or not there is in addition a source of power on board the vehicles);

“vehicle” includes a mobile traction unit;

“work of engineering construction” means the—

- (a) construction of any line or siding otherwise than on an existing transport system; and
- (b) construction, structural alteration, repair (including repointing and repainting) or demolition of any tunnel, bridge or viaduct except where carried on upon a transport system; and

“writing” apart from its usual meaning includes any text transmitted using electronic communications that is received, or accessible by the person to whom it is sent, in legible form.

(2) Any reference in these Regulations to a person operating a train or a vehicle is a reference to the person operating the train or vehicle for the time being in the course of a business or other undertaking carried on by him, whether for profit or not, but it does not include a self-employed person by reason only that he drives or otherwise controls the movement of a train or vehicle.

(3) Parts 2 and 3 of these Regulations shall not apply to or in relation to the operation of a train or the management or use of infrastructure in the tunnel system within the meaning of section 1(7) of the Channel Tunnel Act 1987(b).

## PART 2

### SAFETY CERTIFICATION AND AUTHORISATION

#### **Use of infrastructure on the mainline railway**

**3.—**(1) No person shall operate a train in relation to any infrastructure on the mainline railway unless—

- (a) he has established and is maintaining a safety management system which meets the requirements set out in regulation 5(1) to (3); and
- (b) he holds a current safety certificate in relation to the operation in question,

(a) S.I. 2004/129 as amended by S.I. 2004/1230..

(b) 1987 c.53.

except to the extent that he is doing so within an engineering possession.

(2) No person who is responsible for developing and maintaining infrastructure other than a station or who is responsible for managing and operating a station on the mainline railway shall manage and use it, or permit it to be used, for the operation of trains unless—

- (a) he has established and is maintaining a safety management system which meets the requirements referred to in regulation 5(4);
- (b) he holds a current safety authorisation in relation to the infrastructure in question; and
- (c) where he is using it or permitting such use, the person who is to use the infrastructure has complied with paragraph (1)(b).

#### **Use of infrastructure on other transport systems**

4.—(1) No person shall operate a vehicle in relation to any infrastructure on a transport system other than the mainline railway unless—

- (a) he has established and is maintaining a safety management system which meets the requirements set out in regulation 6; and
- (b) subject to paragraph (3), he holds a current safety certificate in relation to the operation in question,

except to the extent that he is doing so within an engineering possession.

(2) No person who is responsible for developing and maintaining infrastructure, other than a station, or who is responsible for managing and operating a station on a transport system other than the mainline railway shall manage and use it, or permit it to be used, for the operation of a vehicle unless—

- (a) he has established and is maintaining a safety management system which meets the requirements set out in regulation 6; and
- (b) subject to paragraph (3)—
  - (i) he holds a current safety authorisation in relation to the infrastructure in question; and
  - (ii) where he is using it or permitting such use, the person who is to use the infrastructure has complied with paragraph (1)(b).

(3) Paragraphs (1)(b) and (2)(b) shall not apply where the operation in question is only carried out—

- (a) on a tramway; or
- (b) on a transport system on no part of which there is a permitted maximum speed exceeding 40kph.

#### **Safety management system for the mainline railway**

5.—(1) The requirements for a safety management system referred to in regulation 3(1)(a) are that—

- (a) subject to paragraph (2), it is established to ensure that the mainline railway system—
  - (i) can achieve the CSTs; and
  - (ii) is in conformity with national safety rules and safety requirements laid down in TSIs;
- (b) it applies the relevant parts of CSMs;
- (c) it meets the requirements and contains the elements set out in Schedule 1, adapted to the character, extent and other characteristics of the operation in question;
- (d) subject to paragraph (2), it ensures the control of all categories of risk associated with the operation in question which, without prejudice to the generality of the foregoing, shall include such risks relating to the—

- (i) supply of maintenance and material; and
- (ii) use of contractors;
- (e) it takes into account, where appropriate and reasonable, the risks arising as a result of activities carried on by other persons; and
- (f) all parts of it are documented.

(2) The requirements in paragraphs (1)(a) and (d) shall be met where the safety management system of a transport operator or of an applicant for a safety certificate or a safety authorisation (“the first operator”) taken with that of any relevant transport operator is capable of meeting the requirements of the paragraph in question.

(3) In paragraph (2), “relevant transport operator” means another transport operator whose operation is capable of materially affecting the safety of the operation carried on by the first operator.

(4) The requirements for a safety management system referred to in regulation 3(2)(a) are the requirements in paragraphs (1) to (3) and that it–

- (a) takes into account the effects of operations of transport undertakings; and
- (b) contains provisions to ensure that the way in which the infrastructure manager carries out its operation makes it possible for any transport undertaking to operate in accordance with–
  - (i) relevant TSIs and national safety rules; and
  - (ii) the means adopted by it to meet the requirements referred to in regulation 7(4), of which the Executive accepted that there was sufficient evidence upon issue or amendment of its safety certificate pursuant to these Regulations; and
- (c) aims to co-ordinate the emergency procedures of the infrastructure manager or of the applicant for a safety authorisation with those of transport undertakings,

and in each case these requirements shall only apply in relation to transport undertakings that operate or will operate a train in relation to the infrastructure of the infrastructure manager or of the applicant for a safety authorisation in question.

### **Safety management system for other transport systems**

6.—(1) The requirements for a safety management system referred to in regulation 4(1)(a) and 4(2)(a) are that–

- (a) it is adequate to ensure that the relevant statutory provisions will be complied with in relation to the operation in question;
- (b) subject to paragraph (4), it meets the requirements and contains the elements set out in Schedule 1, adapted to the character, extent and other characteristics of the operation in question;
- (c) subject to paragraph (2), it ensures the control of all categories of risk associated with the operation in question which, without prejudice to the generality of the foregoing, shall include such risks relating to the–
  - (i) supply of maintenance and material; and
  - (ii) use of contractors;
- (d) it takes into account, where appropriate and reasonable, the risks arising as a result of activities carried on by other persons; and
- (e) all parts of it are documented.

(2) The requirement in paragraph (1)(c) shall be met where the safety management system of a transport operator or an applicant for a safety certificate or a safety authorisation (“the first operator”) taken with that of any relevant transport operator is capable of meeting the requirements of the paragraph in question.

(3) In paragraph (2), “relevant transport operator” means another transport operator whose operation is capable of materially affecting the safety of the operation carried on by the first operator.

(4) Paragraph 2(c) of Schedule 1 shall apply in relation to transport systems other than the mainline railway as if it read as follows–

“(c) procedures–

(i) to meet relevant technical specifications; and

(ii) relating to operations or maintenance,

insofar as they relate to the safety of persons, and procedures for ensuring that the procedures in sub-paragraphs (i) and (ii) are followed throughout the life-cycle of any relevant equipment or operation;”.

### **Safety certificate**

7.—(1) An application for a first safety certificate in respect of an operation shall–

(a) be made to the Executive;

(b) subject to regulation 17(1) and (2), include the information set out in–

(i) Part I of Schedule 2 in respect of a mainline application; and

(ii) Part 2 of Schedule 2 in respect of a non-mainline application; and

(c) if it is a mainline application, clearly indicate in respect of which part of the safety certificate any information is provided.

(2) Where–

(a) an applicant sends to the Executive in relation to a mainline application the matters specified in paragraphs 1(a) and 1(b)(i) of Schedule 2 ; and

(b) the Executive is satisfied that the certificate in question is for an equivalent operation to that in respect of which the application is made,

then that certificate shall be deemed to be Part A of the safety certificate for the operation in respect of which the application is made.

(3) Subject to regulation 17(7), within four months of the date of receipt of the application, the Executive shall–

(a) issue a safety certificate for the operation in question; or

(b) notify the applicant that it has refused the application,

and in either case shall give reasons for its decision.

(4) A safety certificate shall–

(a) specify the type and extent of the operation in respect of which it is issued; and

(b) certify acceptance by the Executive that the applicant has provided sufficient evidence–

(i) subject to paragraph (2), to demonstrate that the safety management system of the applicant meets the requirements set out in regulations 5(1) to (3) in respect of a mainline application or regulation 6 in respect of a non-mainline application; and

(ii) of the provisions adopted by the applicant to meet the requirements that are necessary to ensure safe operation on the transport system in question,

and reference the information on which such acceptance is based; and

(c) be valid for no longer than five years from the date of issue and the period of validity shall be indicated in the safety certificate and where Part A of the certificate falls within paragraph (2) that period shall expire on or before the date of expiry of the certificate which is deemed to be the Part A.

(5) In paragraph (4)(b)(ii) “requirements” means in relation to–

- (a) a mainline application, the TSIs, national safety rules and other safety requirements referred to in paragraph 2(a) of Schedule 2; and
- (b) a non-mainline application, the relevant statutory provisions, technical specifications and procedures referred to in paragraph 5 of Schedule 2.

#### **Amended safety certificate**

**8.**—(1) Where it is proposed that the type or extent of an operation in respect of which a safety certificate has been issued is to be substantially changed then the holder of the safety certificate shall apply to the Executive for the safety certificate to be amended accordingly and the substantial change shall not be made until the safety certificate is so amended.

(2) An application for an amended safety certificate under this regulation shall –

- (a) provide details of the change proposed;
- (b) provide details of any consequential changes to any information sent to the Executive in respect of the operation in question which remains relevant to that operation; and
- (c) if it is a mainline application, clearly indicate in respect of which part of the safety certificate any information is provided.

(3) Where Part A of a safety certificate in respect of which an application is made falls within regulation 7(2) then the Executive shall–

- (a) consider whether the Part A in question would still be for an equivalent operation if the change were made; and
- (b) if it considers that it would not be equivalent, notify the applicant in accordance with paragraph (4) that it has refused the application and that he should apply for a new safety certificate under regulation 7 if he wants to make the proposed change,

except that he only need provide the details set out in paragraph (2) above in relation to Part B of the safety certificate.

(4) Subject to regulation 17(7), within four months of the date of receipt of the application the Executive shall–

- (a) issue a notice making any necessary amendments to the matters set out in the safety certificate; or
- (b) notify the applicant that it has refused the application,

and in either case shall give reasons for its decision.

#### **Further safety certificate**

**9.**—(1) Before the expiry of a safety certificate the holder of that safety certificate may apply to the Executive for a further safety certificate to be issued for the operation in question.

(2) An application for a further safety certificate shall set out particulars of any changes to any information sent to the Executive in respect of the operation in question which remains relevant to that operation.

(3) Regulations 7(1)(c), 7(2), 7(3) and 7(4) shall apply to an application for and the issuing of a further safety certificate as they apply to an application for and the issuing of a first safety certificate under regulation 7.

#### **Safety authorisation**

**10.**—(1) An application for a first safety authorisation in respect of infrastructure shall–

- (a) be made to the Executive;
- (b) subject to regulation 17(1) and (2), set out particulars of–
  - (i) the infrastructure in question;

- (ii) how the safety management system of the applicant meets the requirements in regulation 5(4) in relation to a mainline application or in regulation 6 in relation to a non-mainline application; and
  - (iii) how the provisions adopted by the applicant meet the requirements which are necessary for the safe design, maintenance and operation of the infrastructure in question.
- (2) Subject to regulation 17(7), within four months of the date of receipt of the application the Executive shall—
- (a) issue a safety authorisation in relation to the infrastructure in question; or
  - (b) notify the applicant that it has refused the application; and
  - (c) in either case shall give reasons for its decision.
- (3) A safety authorisation shall—
- (a) specify the infrastructure in respect of which the authorisation is issued;
  - (b) accept that the applicant has provided sufficient evidence to demonstrate that the safety management system of the applicant meets the requirements—
    - (i) referred to in regulation 5(4) in relation to a mainline application; or
    - (ii) in regulation 6 in relation to a non-mainline application;
  - (c) accept that the applicant has provided sufficient evidence of the provisions adopted by the applicant to meet the requirements that are necessary for the safe design, maintenance and operation of the infrastructure in question;
  - (d) reference the information on which the acceptance referred to in sub-paragraphs (b) and (c) is based; and
  - (e) be valid for no longer than five years from the date of issue and the period of validity shall be indicated in the safety authorisation.

### **Amended safety authorisation**

- 11.**—(1) Where it is proposed that a substantial change is to be made to—
- (a) the infrastructure in respect of which a safety authorisation has been issued;
  - (b) any energy supply, not falling within sub-paragraph (a), which is used in connection with the infrastructure in question; or
  - (c) the principles of operation and maintenance of such infrastructure or energy supply,
- then the holder of the safety authorisation shall apply to the Executive for the safety authorisation to be amended accordingly and the substantial change shall not be made until the safety authorisation is so amended.
- (2) An application for an amended safety authorisation under this regulation shall provide details of—
- (a) the substantial changes proposed; and
  - (b) any consequential changes to any information sent to the Executive in respect of the operation in question which remains relevant to that operation.
- (3) Subject to regulation 17(7), within four months of the date of receipt of the application the Executive shall—
- (a) issue a notice making any necessary amendments to the matters set out in the safety authorisation; or
  - (b) notify the applicant that it has refused the application,
- and in either case shall give reasons for its decision.

**Further safety authorisation**

12.—(1) Before the expiry of a safety authorisation the holder of that safety authorisation may apply to the Executive for a further safety authorisation to be issued for the infrastructure in question.

(2) An application for a further safety authorisation shall set out particulars of any changes to any information sent to the Executive in respect of the operation in question which remains relevant to that operation.

(3) Regulations 10(2) and 10(3) shall apply to an application for and the issuing of a further safety authorisation as they apply to an application for and the issuing of a safety authorisation under regulation 10.

**Notice of changes by holder of a safety certificate or a safety authorisation**

13. The holder of a safety certificate or a safety authorisation shall, without delay, notify the Executive—

- (a) of any major changes—
  - (i) to the means by which he meets the requirements relating to the safety management system as set out in—
    - (aa) regulation 5(1) to (3) in relation to an operation of a transport undertaking on the mainline railway;
    - (bb) regulation 5(4) in relation to an operation of an infrastructure manager on the mainline railway; or
    - (cc) regulation 6 in relation to an operation which is not carried out on the mainline railway;
  - (ii) in the case of a transport undertaking, to the provisions adopted by him to meet any requirements necessary to ensure safe operation on the transport system in relation to the operation in question; or
  - (iii) in the case of an infrastructure manager, to the provisions adopted by him to meet the requirements that are necessary for the safe design, maintenance and operation of the infrastructure in question;
- (b) when persons first commence work directly relating to the operation which is of a type which has not previously been carried out in relation to that operation; or
- (c) when types of vehicle which are new to the operation in question are first introduced.

**Direction to apply for an amended safety certificate or safety authorisation**

14.—(1) Subject to regulation 17(8), where there is a substantial change to any of the relevant statutory provisions which make provision in relation to the safety of the transport system in question, then the Executive may direct the holder of a safety certificate or a safety authorisation to apply to the Executive for an amendment to its safety certificate or safety authorisation.

(2) A direction issued under paragraph (1) shall—

- (a) state the reasons why the Executive considers that it is necessary for the transport operator to apply for an amended safety certificate or safety authorisation;
- (b) identify the information—
  - (i) on the basis of which the Executive's acceptance referred to in regulation 7(4) or 10(3) was made upon issue or amendment of the safety certificate or safety authorisation; or
  - (ii) notified to the Executive under regulation 13, which it considers will have to be changed; and
- (c) specify the period, being not less than 28 days from the date of issue of the direction, within which the application shall be sent to the Executive.

(3) An application for an amended safety certificate or safety authorisation pursuant to this regulation shall provide details of any changes to any information—

- (a) sent to the Executive in respect of the operation in question which remains relevant to that operation; and
- (b) which is consequential upon the relevant change to the relevant statutory provisions.

(4) Regulations 8(2)(c) and 8(3) shall apply to an application for and the issuing of a notice of amendment to a safety certificate under this regulation as they apply to an application for and issuing of an amendment to a safety certificate under regulation 8.

(5) Regulation 11(3) shall apply to an application for and the issuing of a notice of amendment to a safety authorisation under this regulation as it applies to an application for and issuing of an amendment to a safety authorisation under regulation 11.

### **Revocation of safety certificate**

**15.—**(1) The Executive shall revoke—

- (a) either Part A or Part B of a safety certificate if it is satisfied that the holder is no longer satisfying the conditions of that part of the safety certificate and that there is a significant risk arising as a result;
- (b) a safety certificate if it is satisfied that the holder—
  - (i) is no longer satisfying the conditions of that safety certificate and that there is a significant risk arising as a result; or
  - (ii) is not operating a vehicle in relation to any infrastructure on a transport system as intended pursuant to that safety certificate and has not done so throughout the period of one year commencing with the date of issue of the safety certificate by the Executive,

except that this paragraph shall not apply in relation to Part A of a safety certificate where it is deemed to be such a Part A in accordance with regulation 7(2).

(2) In this regulation, “conditions” means in relation to—

- (a) Part A of a safety certificate, any part of the requirements relating to the safety management system set out in—
  - (i) regulation 5(1) to (3) in relation to an operation carried out on the mainline railway; or
  - (ii) regulation 6 in relation to an operation carried out on a transport system other than the mainline railway;
- (b) Part B of a safety certificate, that the provisions adopted by the applicant are sufficient to meet any requirements that are necessary to ensure safe operation on the transport system in question in relation to the operation in question; or
- (c) a safety certificate, the matters referred to in sub-paragraphs (a) and (b).

(3) Before revoking any safety certificate or Part A or B of it, the Executive shall—

- (a) notify the holder that—
  - (i) it is considering revoking that safety certificate or Part A or B of it and the reasons why;
  - (ii) within a period specified in the notice, which shall be not less than 28 days, the holder may make representations in writing to the Executive or, if the holder so requests, may make oral representations to the Executive; and
- (b) consider any representations which are duly made and not withdrawn.

(4) Where the Executive revokes a safety certificate or Part A or B of it, it shall send to the holder with the notice of revocation a statement of the reasons why.

(5) Where—

- (a) the Executive revokes Part B of a safety certificate; and

(b) Part A of that safety certificate is deemed to be Part A of a safety certificate pursuant to regulation 7(2) and was issued by a safety authority in another member State, then the Executive shall notify that safety authority as soon as reasonably possible of that revocation.

### **Revocation of safety authorisation**

**16.**—(1) The Executive shall revoke a safety authorisation if it is satisfied that the holder is no longer satisfying the conditions of that safety authorisation and there is a significant risk arising as a result.

(2) In this regulation, “conditions” means—

- (a) any part of the requirements relating to the safety management system –
  - (i) referred to in regulation 5(4) in relation to an operation carried out on the mainline railway; or
  - (ii) in regulation 6 in relation to an operation carried out on a transport system other than the mainline railway;
- (b) that the provisions adopted by the applicant are sufficient to meet any requirements that are necessary for the safe design, maintenance and operation of the infrastructure in question.

(3) Before revoking any safety authorisation, the Executive shall—

- (a) notify the holder that—
  - (i) it is considering revoking that safety authorisation and the reasons why;
  - (ii) within a period specified in the notice, which shall be not less than twenty-eight days, the holder may make representations in writing to the Executive or, if the holder so requests, may make oral representations to the Executive; and
- (b) consider any representations which are duly made and not withdrawn.

(4) Where the Executive revokes a safety authorisation, it shall send to the holder with the notice of revocation a statement of the reasons why.

### **General provisions relating to safety certificates and safety authorisations**

**17.**—(1) Where an application is made under these Regulations for a safety certificate or safety authorisation or for an amended safety certificate or safety authorisation which relates to an operation on the mainline railway and on a transport system other than the mainline railway then—

- (a) one application may be made for that operation but it shall be split into separate parts for the mainline railway and the other transport system; and
- (b) these Regulations shall apply to those parts as if they were a mainline application and a non-mainline application,

except that where the same information is required it need not be stated twice.

(2) A transport operator may make one application for an operation in relation to which he requires both a safety certificate and a safety authorisation or an amended safety certificate and an amended safety authorisation but—

- (a) such application shall be split into separate parts relating to the safety authorisation and the safety certificate; and
- (b) these Regulations shall apply to those parts as if they were an application for a safety authorisation and a safety certificate or an amended safety authorisation and an amended safety certificate,

except that where the same information is required it need not be stated twice.

(3) Where—

- (a) an applicant sends—

- (i) an application for a safety certificate or safety authorisation, an amended safety certificate or safety authorisation; or
  - (ii) further information to the Executive pursuant to paragraph (5); or
- (b) the holder of a safety certificate or a safety authorisation sends a notice pursuant to regulation 13 or paragraph 9 of Schedule 5;

then he shall at the same time either copy it to any affected party or notify any affected party without delay that the application or further information has been sent and of the address of the website where those documents may be accessed and how they may be accessed and, in either case, shall notify such a party, where the document in question is an application, of the time for making representations to the Executive pursuant to paragraph (6).

- (4) Where the Executive issues a–
- (a) safety certificate or safety authorisation;
  - (b) notice amending a safety certificate or safety authorisation;
  - (c) notice refusing an application for a safety certificate or a safety authorisation or an amended safety certificate or safety authorisation;
  - (d) direction to apply for an amended safety certificate or safety authorisation;
  - (e) notice that it is considering revoking a safety certificate or a safety authorisation; or
  - (f) notice revoking a safety certificate or a safety authorisation,

then the Executive shall at the same time either copy it and the reasons given for the Executive's decision to any affected party or notify any affected party that the relevant document has been issued and of the address of the website where those documents and the reasons given for the decision may be accessed and how they may be accessed and, in either case, shall notify them, where the document in question is a notice that it is considering revocation, of the time for making representations to the Executive pursuant to paragraph (6).

- (5) The Executive may upon receipt of–
- (a) an application for a safety certificate or safety authorisation;
  - (b) an application for an amended safety certificate or safety authorisation;
  - (c) any further information requested under this paragraph;

request as soon as reasonably possible such further information as it may reasonably require and the applicant shall provide such information as soon as reasonably possible except that in a case falling within paragraph (7)(c) the Executive may request such information as soon as reasonably possible after the date at which the 4 month period starts to run as specified in that paragraph.

(6) Where an affected party receives a copy of an application or a notice of revocation pursuant to paragraph (3)(a) or (4)(e) then–

- (a) he may make any representations in writing to the Executive, which are relevant to the application or notice, within 28 days of the date of issue of the application or notice in question; and
- (b) the Executive shall consider any such representations in making its decision.

(7) The period of 4 months for the Executive to make a decision referred to in regulations 7(3), 8(4), 10(2) and 11(3) shall not start to run–

- (a) until the expiry of the 28 day period referred to in paragraph (6);
- (b) until the date of receipt of the last information requested pursuant to paragraph (5); or
- (c) where the application is made in respect of an operation for which the applicant holds a deemed safety certificate or deemed safety authorisation, until the date which falls 9 months before the date of expiry of that deemed safety certificate or deemed safety authorisation in accordance with Schedule 5,

whichever is the later.

(8) An employer who makes an application for a safety certificate or safety authorisation, an amended safety certificate or safety authorisation or sends a notice to the Executive under regulation 13 or paragraph 9 of Schedule 5 shall, in relation to its preparation, consult—

- (a) safety representatives within the meaning of regulation 2(1) of the Safety Representatives and Safety Committees Regulations 1977<sup>(a)</sup>; and
- (b) such other employees as he is required to consult by virtue of regulation 3 of the Health and Safety (Consultation with Employees) Regulations 1996<sup>(b)</sup>.

(9) In this regulation, “affected party” means for a document sent or issued in relation to—

- (a) a safety certificate or an application for a safety certificate—
  - (i) any relevant infrastructure manager;
  - (ii) a trade union which is a recognised trade union within the meaning of regulation 2(1) of the Safety Representatives and Safety Committees Regulations 1977 in relation to employees of the operator or applicant employed in relation to the operation in question; and
  - (iii) the Rail Passengers’ Council and the London Transport Users’ Committee where, in each case, it represents passengers’ interests in relation to the operation in question; and
- (b) a safety authorisation or an application for a safety authorisation—
  - (i) any transport undertaking who is or will be operating on the infrastructure of the applicant or infrastructure manager in question;
  - (ii) any infrastructure manager who manages infrastructure which interfaces or will interface with the infrastructure of the infrastructure manager in question; and
  - (iii) any person falling within paragraph (9)(a)(ii) and (iii).

**Notification to the European Railway Agency regarding safety certificates and safety authorisations relating to the mainline railway**

**18.—**(1) The Executive shall notify the European Railway Agency of the issuing, amendment or revocation of—

- (a) Part A of a safety certificate; or
- (b) a safety authorisation,

pursuant to these Regulations in relation to an operation on the mainline railway within one month of such issue, amendment or revocation.

(2) A notice under paragraph (1) shall include the following information in relation to the safety certificate or safety authorisation—

- (a) the name and address of the holder;
- (b) its date of issue and period of validity;
- (c) the operation or infrastructure in relation to which it was issued; and
- (d) where it relates to a revocation, the reasons for that decision.

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(a) S.I. 1977/500 as amended by S.I. 1996/1513 and 1999/860 and to which there are other amendments not relevant to these Regulations.  
(b) S.I. 1996/1513 as amended by S.I. 1997/1840 and 1999/3242.

## PART 3

### GENERAL DUTIES

#### **Risk assessment**

**19.**—(1) A transport operator shall –

- (a) make a suitable and sufficient assessment of the risks to the safety of any persons for the purpose of identifying the measures he needs to take to ensure safe operation of the transport system in question insofar as this is affected by his operation; and
- (b) implement the measures referred to in sub-paragraph (a).

(2) When carrying out an assessment or a review under paragraph (1) or (3), a transport operator shall apply the CSMs to the extent that the operation is carried out on the mainline railway.

(3) Any assessment under paragraph (1) shall be reviewed by the transport operator who made it if –

- (a) there is a reason to suspect that it is no longer valid; or
- (b) there has been a significant change in the matters to which it relates and where as a result of any such review changes to an assessment are required, the transport operator concerned shall make them,

and he shall implement any changes to the measures identified pursuant to paragraph (1) as a result of the review.

(4) The transport operator shall record in relation to any assessment or review under this regulation–

- (a) the assessment process undertaken, the methods of any calculation used and any assumptions made; and
- (b) the significant findings of the risk assessment including the measures in place and any further measures the transport operator intends to take to ensure safe operation of the transport system in relation to his operation.

(5) Every transport operator shall make and give effect to such arrangements as are appropriate, having regard to the nature of his activities and the extent of the undertaking, for the effective planning, organisation, control, monitoring and review of the measures identified pursuant to paragraph (1) or (3) and shall record such arrangements.

#### **Annual safety reports**

**20.**—(1) Subject to paragraph (2), any transport operator who is subject to the prohibition in regulation 3(1)(b) or 4(1)(b) shall send to the Executive an annual safety report relating to the previous calendar year which shall contain—

- (a) information on how the transport operator’s safety targets, referred to in paragraph 2(b) of Schedule 1, are met;
- (b) the results achieved through putting the transport operator’s safety plans, referred to in paragraph 2(b) of Schedule 1, into effect;
- (c) statistics for the common safety indicators listed in Schedule 3 insofar as they are relevant to the operation in question except, to the extent the operation is carried out on a transport system other than the mainline railway, no statistics are required in relation to the indicators in paragraphs 1(1)(a)(vii), 1(1)(b)(v) and 3 of that Schedule;
- (d) the findings of internal safety auditing carried out pursuant to the procedures referred to in paragraph 2(k) of Schedule 1; and
- (e) comments on any deficiencies or malfunctions relating to the running of vehicles or the management of infrastructure relating to the operation in question that may be relevant to the safety of that transport system,

and where an operation is carried out in part on the mainline railway and in part on another transport system the report shall clearly indicate the information which relates to the part carried out on the mainline railway.

(2) The first annual report required under paragraph (1) shall be sent by 30<sup>th</sup> June 2007 and subsequent reports by 30<sup>th</sup> June in each subsequent calendar year.

(3) Subject to paragraph (4), the Executive shall publish and send to the European Railway Agency an annual report relating to the previous calendar year which shall contain information on the following in relation to the mainline railway—

- (a) the development of railway safety including an aggregation of all the statistics reported to the Executive for the relevant calendar year pursuant to paragraph (1)(c) which relate to an operation or part of an operation which is carried out on the mainline railway;
- (b) any important changes in relation to the regulation of railway safety;
- (c) the development of the system for safety certification and authorisation; and
- (d) the results of and experience relating to the supervision of transport operators,

in Great Britain.

(4) The first annual report required under paragraph (3) shall be sent to the European Railway Agency by 30<sup>th</sup> September 2007 and subsequent reports by 30<sup>th</sup> September in each subsequent calendar year.

(5) Where the Executive discovers, after sending an annual report, that there were errors or omissions in it then it shall send a corrected report for that year to the European Railway Agency at the first convenient opportunity and in any event by no later than the time the next annual report is due to be sent.

#### **Sending, issuing, and keeping of documents and making them available for public inspection**

**21.**—(1) Any application, notice, notification, report or any other information sent to the Executive or records made pursuant to these Regulations shall be in writing and in English.

(2) Any certificate, authorisation, notice, notification, direction, request for information, statement or report issued by the Executive pursuant to these Regulations shall be in writing.

(3) An applicant who makes an application in respect of a safety certificate or a safety authorisation pursuant to regulations 7, 9, 10 or 12 shall when sending the application, notify the Executive of an address in Great Britain for the purposes of this regulation (“notified address”).

(4) Subject to paragraph (3), a transport operator shall keep at the notified address in relation to the operation in question—

- (a) the safety certificate or safety authorisation issued in response to his application for such certificate or authorisation and the documentation referenced in that safety certificate or safety authorisation;
- (b) any notice of amendment issued pursuant to Part 2 of these Regulations or any revision made pursuant to paragraph 8 of Schedule 5 in relation to his safety certificate or safety authorisation;
- (c) any records he is required to make pursuant to regulation 19(4) and (5);
- (d) any annual safety report sent to the Executive under regulation 20(1);
- (e) any notification of changes or of a revision notified to the Executive under regulation 13 or paragraph 9 of Schedule 5; and
- (f) a record of any findings of internal safety auditing carried out pursuant to the procedures referred to in paragraph 2(k) of Schedule 1 and of any action taken in consequence of such auditing; and

or a hard copy or electronic copy of such documents.

(5) The documents referred to in paragraph (4) shall be—

- (a) kept as long as they—

- (i) are or are a copy of the current safety certificate or safety authorisation or a notice of amendment thereof;
- (ii) are or are a copy of a notification of a major change or a revision which is relevant to the current operation of the transport undertaking;
- (iii) relate to the information on the basis of which the Executive's acceptance referred to in regulation 7(4) or 10(3), as the case may be, was made in relation to a current safety certificate or safety authorisation; or
- (iv) relate to a risk assessment, as reviewed from time to time, carried out pursuant to regulation 19.

(6) The documents kept pursuant to paragraph (4)(d) or (4)(f) shall be kept for 5 years and the documents kept pursuant to sub-paragraphs (a), (b), (d) and (e) of paragraph (4) shall, subject to paragraph (7), be made available for public inspection at the notified address at reasonable times and on reasonable notice.

(7) Nothing in paragraph (5) shall require the disclosure of any information—

- (a) relating to a named individual;
- (b) which is commercially confidential; or
- (c) which is detrimental to national security or to the security of the transport system in question.

(8) A person who has a notified address may subsequently notify the Executive of a different address in Great Britain and in this case references in this regulation to the notified address shall be construed as a reference to the last address notified under this paragraph.

### **Co-operation**

**22.—**(1) Every person to whom this paragraph applies shall co-operate as far as is necessary with a transport operator to enable him to comply with the provisions of these Regulations.

(2) Paragraph (1) applies to—

- (a) any transport operator whose operations may affect or may be affected by operations carried out by the duty holder; and
- (b) an employer of persons or a self-employed person carrying out work on or in relation to premises or plant owned or controlled by the duty holder.

(3) Every transport operator shall co-operate, insofar as is reasonable, with any other transport operator who operates on the same transport system where that other transport operator is taking action to achieve the safe operation of that transport system.

(4) In paragraph (2) “duty holder” means a transport operator referred to in paragraph (1).

## **PART 4**

### **SAFETY CRITICAL WORK**

#### **Interpretation and application of Part 4**

**23.—**(1) In this Part—

“assessor” means any person who is competent to make an impartial and objective assessment of another person's competence or fitness to carry out safety critical work, and related expressions shall be construed accordingly;

“controller of safety critical work” means any person controlling the carrying out of safety critical work on a transport system;

“fitness” means physical and mental fitness, and related expressions shall be construed accordingly;

“installation” includes the installation, examination or testing of components;

“maintenance” includes repair work, reconditioning, examination, testing or alteration;

“operator” means any person carrying on an undertaking which includes a transport system or any part of it or the provision of transport services on such a system;

‘safety critical task’ means –

- (a) in relation to a vehicle used on a transport system–
  - (i) driving, dispatching or any other activity which is capable of controlling or affecting the movement of that vehicle;
  - (ii) signalling, and signalling operations, the operation of level crossing equipment, receiving and relaying of communications or any other activity which is capable of controlling or affecting the movement of that vehicle;
  - (iii) coupling or uncoupling;
  - (iv) installation of components;
  - (v) maintenance; or
  - (vi) checking that that vehicle is working properly and, where carrying goods, is correctly loaded before being used;
- (b) in relation to a transport system–
  - (i) installation or maintenance of any part of it or of the telecommunications system relating to it or used in connection with it, or of the means of supplying electricity directly to that transport system or to any vehicles using it or to the telecommunications system;
  - (ii) controlling the supply of electricity directly to it or to any vehicles used on it; or
  - (iii) receiving and relaying of communications;
- (c) in relation to ensuring worker safety on a transport system, any person ensuring the safety of any persons working on or near to the track, whether or not the persons working on or near the track are carrying out safety critical work; and
- (d) in relation to training, any practical training or the supervision of any practical training in any of the tasks set out in sub-paragraphs (a) to (c),

which could significantly affect the health or safety of persons on a transport system;

“safety critical work” means any safety critical task carried out by any person in the course of their work or voluntary work on or in relation to a transport system and related expressions shall be construed accordingly; and

(2) “telecommunications system” means any telecommunications system or its associated equipment which is capable of controlling or affecting the movement of a vehicle, or which is provided for purposes which include calling the emergency services. Any reference in this Part to a person controlling the carrying out of safety critical work is a reference to a person managing, supervising or controlling that work in connection with the carrying on by him of a trade, business or other undertaking (whether or not for profit).

(3) Part 4 shall not apply to the police, ambulance or fire service when they are carrying out their emergency functions on or in relation to a transport system.

### **Competence and fitness**

**24.**—(1) Every controller of safety critical work shall, so far as is reasonably practicable, ensure that a person under his management, supervision or control only carries out safety critical work where –

- (a) that person has been assessed as being competent and fit to carry out that work following an assessment by an assessor;

- (b) there is an accurate and up to date record in writing of that person's competence and fitness which references any criteria for determining competence and fitness against which that assessment of competence was made;
- (c) the record, or an accurate summary of the record referred to in sub-paragraph (b) is available for inspection, on reasonable request, by any other controller of safety critical work or any operator who may be affected by any safety critical work carried out or to be carried out by that person, for the purposes of establishing that person's competence and fitness to carry out safety critical work; and
- (d) there are in place arrangements for monitoring the competence and fitness of that person.

(2) Every controller of safety critical work shall without unreasonable delay review any person's competence or fitness assessment where –

- (a) they have reason to doubt the competence or fitness of a person to carry out that safety critical work; or
- (b) there has been a significant change in the matters to which the assessment relates,

and where, as a result of any such review a reassessment of competence or fitness is required, that reassessment of competence or fitness shall be carried out to ensure that the requirements of paragraph (1) are met.

(3) Where a reassessment of competence or fitness under paragraph (2) is required, the controller of safety critical work shall, so far as is reasonably practicable ensure that, as a result, the health and safety of persons on a transport system is not prejudiced.

### **Fatigue**

**25.**—(1) Every controller of safety critical work shall have in place arrangements to ensure, so far as is reasonably practicable, that a safety critical worker under his management, supervision or control does not carry out safety critical work in circumstances where he is so fatigued or where he would be liable to become so fatigued that his health or safety or the health or safety of other persons on a transport system could be significantly affected.

(2) The arrangements in paragraph (1) shall be reviewed by the controller of safety critical work where he has reason to doubt the effectiveness of those arrangements.

### **Co-operation requirements for safety critical work**

**26.**—(1) Every controller of safety critical work to whom this Part applies shall co-operate as far as is necessary with any other controller of safety critical work or any operator to enable that other controller of safety critical work to comply with the provisions of this Part.

(2) Every person carrying out safety critical work shall, as regards any requirement imposed on any controller of safety critical work under this Part, co-operate with that controller of safety critical work so far as is necessary to enable that requirement to be performed or complied with.

## **PART 5**

### **SAFETY VERIFICATION**

#### **Interpretation of Part 5**

**27.** In this Part–

“Approved Safety Requirements” means the document described in regulation 31(1) as revised in accordance with regulation 31(2);

“competent person” means a person who–

- (a) has sufficient skills, knowledge, experience and resources to determine whether or not to issue the certificate in relation to which he is appointed;

- (b) has not borne such responsibility in relation to any of the matters he has to consider in determining whether or not to issue a certificate that might compromise his objectivity; and
- (c) is sufficiently independent of a management system, or a part thereof, which has borne responsibility for any of the matters he has to consider in determining whether or not to issue a certificate, to ensure that he will be objective in carrying out the task for which he is appointed;

“new” means new to the transport system in question; and

“responsible person” means in relation to any new relevant infrastructure or vehicle, any person who—

- (a) has contracted with another person for the manufacture or construction by that other person of that infrastructure or vehicle; or
- (b) manufactures or constructs that infrastructure or vehicle for his own use, or for sale to, or use by, another person but not where he is contracted to do so by a person falling under sub-paragraph (a),

and includes an authorised representative established in Great Britain of such a person.

### Application of Part 5

28.—(1) This Part shall not apply to—

- (a) any infrastructure which forms part of the mainline railway;
- (b) any vehicle to the extent that it operates on the mainline railway;
- (c) any safety component, subsystem or cableway installation to the extent that the safety component, subsystem or cableway installation in question is subject to the requirements of regulations 4 to 12 of the Cableway Installations Regulations 2004; and
- (d) any vehicle to the extent that it is required to comply with section 24 (approval of trains) of the Channel Tunnel Act 1987.

(2) In paragraph (1)(c), “safety component”, “subsystem” and “cableway installation” shall have the same meaning as in the Cableway Installations Regulations 2004.

### Prohibitions relating to taking into service of new or altered infrastructure or a vehicle

29.—(1) No person shall first take into service on any transport system new or altered infrastructure or a new or altered vehicle the design or construction of which incorporates significant changes compared to any infrastructure or vehicle already in use on that transport system and which would be capable of significantly increasing an existing risk or creating a significant risk to the safety of –

- (a) passengers on the transport system in question; or
- (b) members of the public in streets and any other location where the transport system in question operates and to which the public have access except a location which is a crossing subject to an Order made under section 1 of the Level Crossings Act 1983(a),

unless the requirements of regulation 30(1) have been met.

(2) In this regulation, “first take into service” shall mean first take into service for the provision of a transport service and in ascertaining when this takes place no regard shall be had to any trials or testing that takes place in relation to the relevant infrastructure or vehicle.

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(a) 1983 c.16; sections 1(1A), (4A), (10A) and (10B) were inserted, section 1(3) was repealed and sections 1(6) and (6A) were substituted for section 1(6) as originally enacted by S.I. 1997/487, section 1(7) and (9) were substituted by S.I. 1997/487, regulation 4(5) and (6), section 1(11) was amended by the Local Government (Wales) Act 1994 (c. [ ]), sections 22(1), 66(8) and Schedule 7, paragraph 31 and Schedule 18, the Local Government Act 1985 ([c. ]), section 102 and Schedule 17, the Local Government etc. (Scotland) Act 1994 ([c. ]), section 180(1), Schedule 13, paragraph 131, the Transport and Works Act 1992, SI 1997/487 and the Road Traffic Regulation Act 1984 (c.[ ]), section 146 and Schedule 13.

(3) No person shall carry out any testing or trials on a transport system of any relevant infrastructure or vehicle where such testing or trials would be capable of significantly increasing an existing risk or creating a significant risk to the safety of –

- (a) passengers on the transport system in question; or
- (b) members of the public in streets and any other locations where the transport system in question operates and to which the public have access except a location which is a crossing subject to an Order made under section 1 of the Level Crossings Act 1983,

unless the requirements of paragraph (4) have been met.

(4) The requirements referred to in paragraph (3) are that a competent person has issued a certificate in relation to such testing or trials verifying that the–

- (a) condition of the relevant vehicle or infrastructure in question is;
- (b) method proposed for the testing or trials is; and
- (c) measures proposed to control risks to the safety of persons are,

such as to reduce risks to the safety of persons to a level that is as low as is reasonably practicable.

### **Verification of requirements**

**30.**—(1) The requirements referred to in regulation 29(1) are that–

- (a) the relevant infrastructure or vehicle meets any relevant–
  - (i) Approved Safety Requirements; or
  - (ii) safety requirements in Schedule 4 where there are no Approved Safety Requirements for the relevant infrastructure or vehicle in question.
- (b) the relevant infrastructure or vehicle is designed and constructed in accordance with good safety engineering practice; and
- (c) subject to paragraph (2), a competent person has issued a certificate verifying the matters set out in sub-paragraphs (a) and (b) in relation to the relevant infrastructure or vehicle in question, taking into account any–
  - (i) intended and reasonably foreseeable conditions of use; and
  - (ii) relevant safety guidance relating to transport systems issued by the Executive.

(2) A competent person may–

- (a) specify in the certificate referred to in paragraph (1)(c) such restrictions on the use of the relevant infrastructure or vehicle as he reasonably considers are necessary; and
- (b) in the circumstances set out in–
  - (i) regulation 32(3)(a) and (b) verify the matters referred to in paragraph (1)(c) to the extent possible where the prototype or design was already selected or completed at the date of his appointment; or
  - (ii) regulation 32(3)(c) verify the matters referred to in paragraph (1)(c) to the extent possible having regard to the stage reached in the selection or completion of the design or prototype as at 1<sup>st</sup> October 2007 and the date of his appointment.

### **Approved Safety Requirements**

**31.**—(1) The Commission shall approve and publish for the purposes of these Regulations a document entitled “Approved Safety Requirements” which shall set out safety requirements for guided transport systems other than the mainline railway.

(2) The Commission may approve a revision of the approved document referred to in paragraph (1) and, when it does so, the Commission shall within 3 months of the date of that approval publish, in such manner as it considers appropriate, a notice specifying the revision, the date on which it was approved and the date on which it takes effect, which last-mentioned date shall be not less than 6 months after the date of the approval of the revision.

**Appointment of a competent person**

**32.**—(1) A competent person appointed to issue a verification certificate for the purposes of regulation 29(4) or 30(1)(c) shall be appointed by—

- (a) the infrastructure manager of the infrastructure in question in relation to altered infrastructure;
- (b) the transport undertaking for the operation in question in relation to an altered vehicle; or
- (c) a responsible person in relation to new infrastructure or a new vehicle.

(2) A competent person appointed to issue a verification certificate for the purposes of regulation 30(1)(c) shall be appointed—

- (a) at such time before the completion or selection of the design for the relevant infrastructure or vehicle in question as will enable any matters relating to safety raised by the competent person to be taken into account in that completion or selection; or
- (b) in the circumstances set out in –
  - (i) paragraph (3)(a) or (b), at such time before the relevant infrastructure or vehicle is to be first taken into service as will enable any matters relating to safety raised by the competent person, which may reasonably be considered where the prototype or design of the vehicle is already selected or completed, to be taken into account; or
  - (ii) paragraph (3)(c), at such time before the relevant infrastructure or vehicle is to be first taken into service as will enable any matters relating to safety raised by the competent person which may reasonably be considered having regard to the stage reached in the selection or completion of the design or prototype as at 1<sup>st</sup> October 2007, to be taken into account.

(3) The circumstances referred to in paragraph (2)(b) are where the relevant infrastructure or vehicle in question—

- (a) conforms with a prototype for which a manufacturer has obtained approval under regulation 6 of ROTS;
- (b) has been first taken into service in Great Britain on another transport system and, where applicable, in compliance with this Part, ROTS or with any previous enactment applying at that time to such first taking into service; or
- (c) is works, plant or equipment in respect of which an application for approval was made within the meaning of regulation 37(5) and no determination of that approval was made on or before 1<sup>st</sup> October 2007.

(4) Where a competent person is required to be appointed for the purposes of regulation 30(1)(c) then the transport operator or responsible person who appointed him shall ensure that a competent person, whether the competent person originally appointed or another, continues to be appointed in relation to the relevant infrastructure or vehicle in question until—

- (a) the relevant infrastructure or vehicle has first been taken into service; or
- (b) a final decision has been made not to take the relevant infrastructure or vehicle into service,

whichever is the first to occur.

**Right to make representations to competent person**

**33.** Where a competent person is minded not to issue a certificate under regulation 30(1)(c) then he shall;

- (a) give notice in writing to the transport operator or responsible person who appointed him, copied to the Executive, of the reasons why he is minded not to issue a certificate;
- (b) give the transport operator or responsible person in question the opportunity to make representations in writing within a period of 28 days from the date of the notice; and

- (c) consider any representations made within that period by the transport operator or responsible person in question in making his decision.

**Provision of information to competent person and technical file**

**34.**—(1) Where it is proposed to bring into service altered infrastructure or an altered vehicle falling within regulation 29(1) then the infrastructure manager for such infrastructure or the transport undertaking for the operation in question in relation to such a vehicle shall—

- (a) provide any competent person he has appointed to issue a certificate under regulation 29(4) or 30(1)(c) with any information that person may reasonably require in connection with the issuing of such a certificate;
- (b) maintain a technical file in writing containing the information set out in paragraph (3); and
- (c) keep such technical file until—
  - (i) a final decision has been made not to take the altered infrastructure or vehicle into service; or
  - (ii) the altered infrastructure or vehicle is permanently withdrawn from service, whichever is the first to occur.

(2) Where it is proposed to bring into service new infrastructure or a new vehicle falling within regulation 29(1) then –

- (a) the responsible person who appointed a competent person pursuant to regulation 32(1)(c) shall carry out the duties specified in sub-paragraphs (a) and (b) of paragraph (1) and shall keep the technical file referred to in paragraph (1)(b) until—
  - (i) a final decision has been made not to bring the new infrastructure or vehicle into service; or
  - (ii) the new infrastructure or vehicle is first brought into service, whichever is the first to occur; and
- (b) when that new infrastructure or vehicle is first brought into service—
  - (i) the infrastructure manager for that infrastructure or the transport undertaking for the operation in question in relation to that vehicle shall maintain the technical file and shall keep it until the new infrastructure or vehicle in question is permanently withdrawn from service; and
  - (ii) the responsible person who formerly maintained and kept the technical file shall cooperate with the transport operator in question as far as is necessary to enable that transport operator to meet his duty in sub-paragraph (i).

(3) The technical file referred to in paragraph (1)(b) shall contain the following information in relation to the relevant infrastructure or vehicle in question—

- (a) a description and specification of the alterations or the new infrastructure or vehicle and the technical specifications;
- (b) any technical plans and drawings;
- (c) a statement of the intended and any reasonably foreseeable conditions of use;
- (d) a list of any national or international standards in accordance with which the relevant infrastructure or vehicle is designed or constructed;
- (e) copies of any operating and maintenance manuals or instructions; and
- (f) copies of any certificates issued by a competent person under regulation 29(4) or 30(1)(c),

except that in the circumstances set out in regulation 33(3)(a) and (b) the technical file need only contain the information in sub-paragraphs (b) and (d) where it is reasonably possible to obtain it.

## PART 6

### MISCELLANEOUS

#### Appeals

**35.**—(1) A person who is aggrieved by a—

- (a) decision of the Executive to refuse his application for—
  - (i) a safety certificate or safety authorisation;
  - (ii) an amended safety certificate or safety authorisation;
- (b) direction of the Executive to make an application to amend his safety certificate or safety authorisation; or
- (c) decision of the Executive to revoke his —
  - (i) safety certificate or part of it; or
  - (ii) safety authorisation,

may appeal to the Secretary of State.

(2) For the purposes of paragraph (1)(a), a failure by the Executive to make a decision on whether or not to issue or amend a safety certificate or safety authorisation within four months of the date that period starts to run in accordance with regulation 17(7) shall be treated as a refusal of the application.

(3) Sub-sections (2) to (6) of section 44 of the 1974 Act shall apply for the purposes of paragraph (1) as they apply to an appeal under section 44(1) of that Act.

(4) The Health and Safety Licensing Appeals (Hearing Procedure) Rules 1974(a), as respects England and Wales, and the Health and Safety Licensing Appeals (Hearing Procedure)(Scotland)(b) Rules 1974, as respects Scotland, shall apply to an appeal under paragraph (1) as they apply to an appeal under sub-section (1) of the said section 44, but with the modification that references to a licensing authority are to be read as references to the Executive.

(5) Where an appeal is made under paragraphs (1)(a) or (1)(c), the decision in question shall be suspended pending the final determination of the appeal.

#### Offences

**36.** A failure to discharge a duty placed on the Executive or the Commission by these Regulations shall not be an offence under section 33(1) (c) of the Health and Safety at Work etc. Act 1974.

#### Transitional provisions and savings

**37.**—(1) Any competence and fitness assessments made pursuant to regulation 3 of the Railways (Safety Critical Work) Regulations 1994(c) shall have effect as if they were made under Part 4, provided that the assessment would, at the time it was made, have met the requirements for impartiality and objectivity in that Part.

(2) Notwithstanding the amendment of ROTS pursuant to regulation 40, ROTS shall, up to and including 1<sup>st</sup> October 2007, continue in force as they had effect on 30<sup>th</sup> September 2005 for the purposes of—

- (a) determining applications for approval made;

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(a) S.I. 1974/2040.

(b) S.I. 1974/2068 [Scots.]

(c) SI 1994/299 as amended by SIs 1996/1592, 1999/2024 and 2000/2688

- (b) issuing a written consent for the purposes set out in regulation 4(4)(b) of ROTS in relation to new or altered works, plant or equipment for which an application for approval has been made;
- (c) making notices dispensing with or requiring compliance with certain provisions of ROTS under regulation 10(1)(a) or 11(1)(a) of ROTS in relation to new or altered works, plant or equipment, for which an application for approval has been made,

to the Executive in relation to a relevant transport system other than the mainline railway before 1<sup>st</sup> October 2005.

(3) Where an approval is issued by the Executive in response to an application for approval made in relation to a transport system other than the mainline railway—

- (a) before 1<sup>st</sup> October 2005 but where the new or altered works, plant or equipment are first taken into service within the meaning of regulation 29(2) on or after that date; or
- (b) on or before 1<sup>st</sup> October 2007 pursuant to paragraph (2),

in relation to new or altered works, plant or equipment that is relevant infrastructure or a vehicle then such works, plant or equipment shall be deemed to satisfy the requirements of regulations 30 and 34.

(4) Where a written consent is issued by the Executive in relation to new or altered works, plant or equipment which is relevant infrastructure or a vehicle in relation to a transport system other than the mainline railway—

- (a) under regulation 4(4)(b)(i) of ROTS on or before 1<sup>st</sup> October 2007 pursuant to paragraph (2) then such relevant infrastructure or vehicle shall be deemed satisfy the requirements of regulation 29(4); or
- (b) under regulation 4(4)(b)(ii) of ROTS on or before 1<sup>st</sup> October 2007 pursuant to paragraph (2) then no regard shall be taken of the use of such relevant infrastructure or vehicle for the purposes for which the written consent relates when determining whether the relevant infrastructure or vehicle has first been taken into service in accordance with regulation 29(2).

(5) In this regulation—

- (a) “application for approval” means an application for approval made under regulation 5, 6 or 7 of ROTS;
- (b) “altered works, plant or equipment” shall have the meaning in regulation 2(a) of ROTS; and
- (c) “relevant transport system” has the meaning in regulation 2(a) of ROTS as it had effect on 30<sup>th</sup> September 2005.

(6) Schedule 5 shall have effect.

### Exemptions

**38.**—(1) Subject to paragraphs (2) and (3) the Executive may, by certificate in writing, exempt any person or class of persons or any transport system or part of a transport system from any requirement or prohibition imposed by these Regulations.

(2) The Executive shall not grant any such exemption in relation to any requirement or prohibition imposed by Parts 2 or 3 in relation to an operation carried out on the mainline railway.

(3) The Executive shall not grant any such exemption unless, having regard to the circumstances of the case, and in particular to—

- (a) the conditions, if any, which it proposes to attach to the exemption; and
- (b) any other requirements imposed by or under any enactment which applies to the case,

it is satisfied that the health and safety of persons who are likely to be affected by the exemption will not be prejudiced in consequence of it.

(4) The Secretary of State for Defence may, in the interests of national security, by a certificate in writing exempt any person or class of persons from any requirement or prohibition imposed by these Regulations.

(5) An exemption granted pursuant to paragraph (1) or (4) may be granted subject to conditions and to a limit of time.

(6) An exemption granted pursuant to—

(a) paragraph (1) may be revoked by the Executive; and

(b) paragraph (4) may be revoked by the Secretary of State for Defence,

at any time by a further certificate in writing.

### **Defence of due diligence**

**39.**—(1) Subject to the following provisions of this regulation, in any proceedings against any person for an offence under regulation 29(1) or 29(3) it shall be a defence for that person to show that he took all reasonable steps and exercised all due diligence to avoid committing the offence.

(2) Where in any proceedings against any person for such an offence the defence provided in paragraph (1) involves an allegation that the commission of the offence was due to—

(a) the act or default of another; or

(b) reliance on information given by another,

that person shall not, without the leave of the court, be entitled to rely on the defence unless, within a period ending seven clear days before the hearing of the proceedings (or in Scotland, the trial diet), he has served a notice under paragraph (3) on the person bringing the proceedings.

(3) A notice under this paragraph shall give such information identifying, or assisting in the identification of, the person who committed the act or default or gave the information as is in the possession of the person serving the notice at the time he serves it.

(4) A person shall not be entitled to rely on the defence provided by paragraph (1) by reason of his reliance on information supplied to another, unless he shows that it was reasonable in all the circumstances for him to have relied upon the information, having regard in particular—

(a) to the steps which he took, and those which might reasonably have been taken, for the purpose of verifying the information; and

(b) to whether he had any reason to disbelieve the information.

### **Consequential amendments**

**40.** The Regulations referred to in Schedule 6 shall be amended as set out in that Schedule.

### **Revocation**

**41.** The Railways (Safety Critical Work) Regulations 1994 and the Railways (Safety Case) Regulations 2000(a) are hereby revoked.

Signatory text

Address  
Date

*Name*  
Parliamentary Under Secretary of State  
Department for Transport

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(a) S.I. 2000/2688, as amended by S.I. 2000/2482, 2001/2626, 2001/3291, 2002/2099 and 2003/579.

## SCHEDULE 1      Regulations 5(1)(c), and 6(1)(b).

### SAFETY MANAGEMENT SYSTEM

*(This Schedule substantially reproduces the provisions of Annex III to the Directive)*

#### **Requirements on the safety management system**

1. The safety management system shall–
  - (a) describe the distribution of responsibilities, within the operation, for the safety management system;
  - (b) show how control of the safety management system by the management on different levels is secured;
  - (c) show how persons carrying out work or voluntary work directly in relation to the operation and their representatives on all levels are involved with the safety management system; and
  - (d) show how continuous improvement of the safety management system is ensured.

#### **Basic elements of the safety management system**

2. The basic elements of a safety management system are–
  - (a) a statement of the safety policy which has been approved by the chief executive and communicated to all persons carrying out work or voluntary work directly in relation to the operation;
  - (b) qualitative and quantitative targets for the maintenance and enhancement of safety and plans and procedures for reaching those targets;
  - (c) procedures to meet technical and operational standards or other requirements as set out in–
    - (i) TSIs;
    - (ii) national safety rules;
    - (iii) other relevant safety requirements; and
    - (iv) decisions of the Executive addressed to the transport operator in question, and procedures to ensure compliance with the requirements listed in this paragraph throughout the life-cycle of any relevant equipment or operation which is subject to the requirement in question.
  - (d) procedures and methods for carrying out risk evaluation and implementing risk control measures when–
    - (i) there is a change in the way in which the operation in question is carried out; or
    - (ii) new material is used in the operation in question, which gives rise to new risks in relation to any infrastructure or the operation being carried out;
  - (e) provision of programmes for training of persons carrying out work or voluntary work directly in relation to the operation and systems to ensure that the competence of such persons is maintained and that they carry out tasks accordingly;
  - (f) arrangements for the provision of sufficient information relevant to safety–
    - (i) within the operation in question; and

- (ii) between the operator in question and any other transport operator or an applicant for a safety certificate or a safety authorisation who carries out or who intends to carry out operations on the same infrastructure;
- (g) procedures and formats for the documentation of safety information;
- (h) procedures to control the lay out of, and changes to, vital safety information;
- (i) procedures to ensure that accidents, incidents, near misses and other dangerous occurrences are reported, investigated and analysed and that necessary preventative measures are taken;
- (j) provision of plans for action, alerts and information in the case of an emergency which are to be agreed with any public body, including the emergency services, that may be involved in such an emergency; and
- (k) provisions for recurrent internal auditing of the safety management system.

## SCHEDULE 2

Regulation 7(1)(b)

### APPLICATION FOR A SAFETY CERTIFICATE

#### PART 1

#### INFORMATION TO BE INCLUDED FOR A MAINLINE APPLICATION

1. The following information shall be included in relation to Part A of a safety certificate—
  - (a) particulars of the type and extent of the operation in respect of which the application is made; and
  - (b) either—
    - (i) a copy of a current certificate issued to the applicant by the Executive, other than a deemed safety certificate, or a safety authority in another member State under national provisions giving effect to article 10(2)(a) of the Directive which relates to an equivalent railway operation; or
    - (ii) particulars of how the safety management system of the applicant meets the requirements set out in regulation 5(1) to (3).
2. The following information shall be included in relation to Part B of a safety certificate—
  - (a) information on the TSIs, national safety rules and other safety requirements relevant to the applicant's operation including those relevant to persons carrying out work in relation to the operation and the applicant's vehicles and an explanation of how compliance with these requirements is ensured by the safety management system;
  - (b) information on the different types of work being carried out by persons directly in relation to the operation including evidence of how the applicant ensures that when such persons are carrying out such work that they are doing so in accordance with the requirements of any relevant TSIs and national safety rules; and
  - (c) information on the different types of rolling stock used for the operation in question including evidence that they meet any relevant TSIs and national safety rules,

and where information is submitted concerning an interoperability constituent or a subsystem which is subject to and complies with the requirements of the Railways (Interoperability) (High-Speed) Regulations 2002<sup>(a)</sup> ("2002 Regulations") then only brief details need be supplied

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<sup>(a)</sup> S.I. 2002/1166.

concerning compliance of such constituents or subsystems with TSIs and other requirements of those Regulations and in this paragraph “interoperability constituent” and “subsystem” shall have the same meaning as in the 2002 Regulations

## PART 2

### INFORMATION TO BE INCLUDED FOR A NON-MAINLINE APPLICATION

3. Particulars of the type and extent of the operation in respect of which the application is made.
4. Particulars of how the safety management system of the applicant meets the requirements set out in regulation 6.
5. Information on the—
  - (a) relevant statutory provisions which are applicable to the operation; and
  - (b) technical specifications and procedures relating to operations and maintenance that are relevant to the safety of the transport system which the applicant proposes to follow,and an explanation of how compliance with these requirements is ensured by the safety management system.
6. Information on the different types of work or voluntary work being carried out by persons directly in relation to the operation including evidence of how the applicant ensures that when such persons are carrying out work or voluntary work in relation to the operation that they are doing so in accordance with relevant requirements of the relevant statutory provisions referred to in paragraph 5(a).
7. Information on the different types of rolling stock used for the operation including evidence that they meet relevant requirements of the relevant statutory provisions referred to in paragraph 5(a).

## SCHEDULE 3

Regulation 20(1)(c)

### COMMON SAFETY INDICATORS

*(This Schedule substantially reproduces the provisions of Annex I to the Directive)*

#### Indicators relating to accidents

- 1.—(1) Total and relative (to vehicle kilometres) number of—
  - (a) accidents and a break-down of the following types of accidents—
    - (i) collisions of vehicles, including collisions with obstacles within the loading gauge;
    - (ii) derailments of vehicles;
    - (iii) level-crossing accidents which shall include accidents involving persons at level-crossings;
    - (iv) accidents to persons caused by vehicles in motion except for suicides;
    - (v) suicides;
    - (vi) fires in vehicles; and
    - (vii) any other types of accidents,and each such accident shall be reported on under the heading of the primary accident even where the consequences of any secondary accident are more severe such as where a fire follows a derailment.

- (b) persons seriously injured or killed by type of accident divided into the following categories—
  - (i) passengers;
  - (ii) persons carrying out work or voluntary work directly in relation to the operation;
  - (iii) level crossing users;
  - (iv) unauthorised persons on premises of the transport system; and
  - (v) any other types of person,and the number of passengers seriously injured or killed shall also be indicated in relation to the total number of passenger kilometres.

(2) The provisions of Regulation 91/2003 of the European Parliament and the Council of 16<sup>th</sup> December 2002 on rail transport statistics<sup>(a)</sup> shall be applied to any information provided under this paragraph.

#### **Indicators relating to incidents and near-misses**

- 2. Total and relative, to vehicle kilometres, number of—
  - (a) broken rails;
  - (b) buckled rails;
  - (c) wrong-side signalling failures;
  - (d) signals passed at danger; and
  - (e) broken wheels and axles on vehicles in service.

#### **Indicators relating to consequences of accidents**

- 3.—(1) Total and relative—
  - (a) to train kilometres, cost in Euros of all accidents, which shall include, where it is possible to provide such figures, the cost of the following—
    - (i) deaths and injuries of persons;
    - (ii) compensation for loss of or damage to the property of passengers, persons carrying out work or voluntary work directly in relation to the operation or to third parties including damage caused to the environment;
    - (iii) replacement or repair of damaged rolling stock and railway installations; and
    - (iv) delays, disturbances and re-routing of traffic including any additional costs to persons carrying out work or voluntary work directly in relation to the operation and the loss of future revenue.
  - (b) to number of hours worked, number of working hours of persons carrying out work or voluntary work directly in relation to the operation which have been lost as a consequence of accidents.

(2) In calculating the costs under sub-paragraph (1)(a), the amount of any indemnity or compensation recovered or expected to be recovered from third parties shall be deducted except for any relevant compensation recovered under insurance policies held by transport operators.

#### **Indicators relating to technical safety of infrastructure and its implementation**

- 4. The—
  - (a) percentage of tracks with a train protection system, within the meaning of regulation 2(1) of the Railway Safety Regulations 1999<sup>(b)</sup>, in operation;

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<sup>(a)</sup> OJ No. L14 of 21.1.03, p. 1.  
<sup>(b)</sup> S.I. 1999/2244.

- (b) percentage of train kilometres using operational ATP systems;
- (c) number of level crossings (total and total per kilometre of line); and
- (d) percentage of level crossings with automatic or manual protection.

**Indicators relating to the management of safety**

5. Internal audits carried out by transport operators pursuant to the procedures referred to in paragraph 2(k) of Schedule 1 and the number of such audits which have been carried out and that number expressed as a percentage of the audits which were planned for that year.

**SCHEDULE 4**

Regulation 30(1)(a)(ii)

**SAFETY VERIFICATION-SAFETY REQUIREMENTS**

1. Infrastructure or a vehicle shall ensure, so far as is reasonably practicable, the safety of persons who may be affected by such infrastructure or vehicle.

2. Infrastructure guiding or supporting vehicles shall provide for the safe guidance and support of vehicles under all intended and reasonably foreseeable operating conditions.

3. Where relevant to the infrastructure or vehicle in question, any infrastructure or a vehicle shall provide for adequate clearances between vehicles and between vehicles and infrastructure for the purpose of ensuring the safe passage of vehicles.

4. Any infrastructure which consists of a structure located above, below or adjacent to the transport system shall, so far as is reasonably practicable—

- (a) be capable of supporting any load imposed on it; and
- (b) be designed, located and constructed so as to avoid or mitigate any risks to the safety of that system.

5. Where infrastructure creates a tunnel or other enclosed space then that enclosed space shall provide, so far as is reasonably practicable—

- (a) a safe environment for persons; and
- (b) for the evacuation of persons in an emergency.

6. A station shall provide, so far as is reasonably practicable—

- (a) a safe environment for persons; and
- (b) for the evacuation of persons in an emergency.

7. A station shall provide for, so far as is reasonably practicable, the safe boarding of and alighting from vehicles by persons.

8. A station shall have fire and fume prevention and control measures which are commensurate with the fire risk and consistent with any emergency evacuation arrangements.

9. Energy systems used to power a transport system, any of its infrastructure or a vehicle shall not, so far as is reasonably practicable, endanger persons.

10. Energy systems used to power a transport system, any of its infrastructure or a vehicle shall not, so far as is reasonably practicable, interact dangerously with any other system necessary for the safe operation of that transport system.

11. Any system which controls the movement of a vehicle shall ensure, so far as is reasonably practicable, that vehicles are safely routed, spaced and controlled.

12. Suitable and sufficient plant and infrastructure shall be provided to ensure, so far as is reasonably practicable, that there is adequate co-ordination of emergency arrangements between

transport operators on the transport system and the emergency services in the event of an emergency.

**13.** Where a right of way crosses the transport system at the same level as the permanent way or other means of guiding or supporting vehicles of the transport system then the system which controls the movement of the vehicle shall be suitable and sufficient, together with any relevant plant and infrastructure, to ensure the safety of persons on the transport system and using the crossing.

**14.** Any vehicle shall be compatible with–

- (a) the infrastructure of the transport system in question including any system to control the movement of that vehicle which forms part of that infrastructure; and
- (b) any system intended to control the movement of that vehicle which is intended to form part of that vehicle,

to the extent necessary to ensure the safety of persons.

**15.** A vehicle and any couplings between vehicles shall protect, so far as is reasonably practicable, persons travelling in the vehicles in the event of a collision or a derailment.

**16.** Any part of a vehicle which guides that vehicle shall ensure the safety of persons under all intended and reasonably foreseeable operating conditions.

**17.** Any system which regulates the speed of a vehicle shall be–

- (a) compatible with–
  - (i) any infrastructure of the transport system in question; or
  - (ii) any system which controls the movement of the vehicle; and
- (b) take into account the intended and any reasonably foreseeable conditions of use,

to the extent necessary to ensure the safety of persons.

**18.** A vehicle shall provide, so far as is reasonably practicable, a safe means of access and egress and retention of persons.

**19.** There shall be an effective system for communicating safety messages to and from persons within a vehicle and between persons within a vehicle and “vehicle” shall mean two or more vehicles coupled together where they are so coupled.

**20.** The interior of a vehicle shall provide, so far as is reasonably practicable, a safe environment for persons and for the safe evacuation of persons in the vehicle in an emergency.

## SCHEDULE 5

Regulation 37(6)

### TRANSITIONAL PROVISIONS AND SAVINGS-SAFETY CERTIFICATES AND SAFETY AUTHORISATIONS

**1.** Subject to the following paragraphs of this Schedule–

- (a) a notification of acceptance by the Executive of a safety case in relation to the operation of trains pursuant to regulation 5(7)(a) of the 2000 Regulations in relation to a safety case–
  - (i) which is current immediately before 1<sup>st</sup> October 2005; or
  - (ii) which is issued pursuant to paragraph 3,shall be deemed to be a safety certificate for that operation;

a notification of acceptance by the Executive of a safety case in relation to the use of railway infrastructure pursuant to regulation 4(4) or the operation of a station pursuant to regulation 5(7)(a) of the 2000 Regulations in relation to a safety case—

- (iii) which is current immediately before 1<sup>st</sup> October 2005; or
- (iv) which is issued pursuant to paragraph 3,

shall be deemed to be a safety authorisation for the infrastructure in question,

and the holder of a deemed safety certificate shall also be deemed to have met the applicable requirements of regulations 3(1)(a) and 4(1)(a) and the holder of a deemed safety authorisation shall also be deemed to have met the applicable requirements of regulations 3(2)(a) and 4(2)(a).

**2.** In paragraph 1 a notification of acceptance shall be construed as including the original notification referred to in paragraph 1(a) or 1(b) together with any notification of acceptance of a revision of the safety case in question by the Executive pursuant to regulation 7(7) of the 2000 Regulations or that regulation as saved by paragraph 3 in relation to the operation in question.

**3.** Notwithstanding their revocation the 2000 Regulations shall continue in force as they had effect on 1<sup>st</sup> October 2005 for the purposes of –

- (a) the consideration, acceptance or refusal of acceptance of safety cases and revisions to safety cases submitted to the Executive for acceptance before 1<sup>st</sup> October 2005 under regulations 4, 5, 7 or 8 of the 2000 Regulations;
- (b) the making and determination of appeals under regulation 15 of the 2000 Regulations in relation to—
  - (i) the determination of any such appeals made before but not determined on 1<sup>st</sup> October 2005; and
  - (ii) the making and determination of any such appeals in relation to decisions on submissions falling within paragraph (a).

**4.** A deemed safety certificate or safety authorisation shall—

- (a) in the case of a deemed safety certificate or safety authorisation falling within paragraph 1(a)(i) or 1(b)(i), be deemed to be issued on 1<sup>st</sup> October 2005;
- (b) in the case of a deemed safety certificate or safety authorisation falling within paragraph 1(a)(ii) or 1(b)(ii), be deemed to be issued on the date of the notification of acceptance in question; and
- (c) be deemed to be held by the person to whom the notification of acceptance in question was addressed or, in the case of a deemed safety certificate or authorisation falling within paragraph 1(a)(i) or 1(b)(i), the person who is a successor of that person or a previous successor pursuant to regulation 2(7) of the 2000 Regulations on 1<sup>st</sup> October 2005;

**5.** A deemed safety certificate or safety authorisation shall be valid until—

- (a) in the case of a deemed—
  - (i) safety certificate, the holder has applied for a safety certificate under regulation 7 for the operation in question and the Executive has issued a safety certificate in response to that application; or
  - (ii) safety authorisation, the holder has applied for a safety authorisation for the operation in question under regulation 10 and the Executive has issued a safety authorisation in response to that application;
- (b) subject to paragraph 6, the date by which the periodic review of the safety case to which the deemed safety certificate or deemed safety authorisation relates would have been required under regulation 6 of the 2000 Regulations had it still been in force; or
- (c) 1<sup>st</sup> October 2007,

whichever is the first to occur.

6. Where the date of the periodic review referred to in paragraph 5(b) would fall on or before 1<sup>st</sup> April 2006 then a deemed safety certificate or safety authorisation shall be valid up to and including 1<sup>st</sup> April 2006.

7. Where a transport operator–

- (a) holds a deemed safety certificate or deemed safety authorisation; and
- (b) the control of the operation in question is transferred to another person after 1<sup>st</sup> October 2005 so that regulation 2(7) of the 2000 Regulations would have operated to treat that other person as a successor had it still been in force,

then that other person may rely upon the deemed safety certificate or safety authorisation and comply with the provisions of this Schedule as though he were the holder of that deemed safety certificate or safety authorisation for a period of 6 months from the date he becomes a successor and may do so notwithstanding the prior expiry of such a certificate or authorisation in accordance with paragraph 5.

8. The holder of a deemed safety certificate or safety authorisation shall revise the contents of the safety case to which the deemed safety certificate or safety authorisation relates whenever it is appropriate to do so.

9. Where the revision referred to in paragraph 8 renders the safety case materially different from that accepted in the deemed safety certificate or safety authorisation then the holder of the deemed safety certificate or authorisation shall, without delay, notify the Executive of such revision.

10. Where a holder of a deemed safety certificate or safety authorisation proposes a change to the operation to which a deemed safety certificate or safety authorisation relates which would have been a change falling within regulation 8(1) or 11(1) if those regulations had applied, then he shall not make such a change until he has applied for and the Executive has issued a new safety certificate or safety authorisation for that operation pursuant to regulation 7 or 10 as the case may be.

11. Where a person–

- (a) was granted an exemption, which has not been revoked, from the prohibition relating to the holding of an accepted safety case in regulation 4(1) or 5(1) of the 2000 Regulations; or
- (b) was not subject to the requirements of the 2000 Regulations immediately before 1st October 2005 by virtue of their operation falling wholly within sub-paragraphs (a) to (c) of the definition of “railway” in the 2000 Regulations or because they were carrying out an operation on a transport system other than a railway,

then notwithstanding the revocation of the 2000 Regulations, that person shall not be required to comply with the provisions of Part 2 of these Regulations until April 2006.

12. The Regulations shall apply in relation to–

- (a) a deemed safety certificate as if regulations 8, 9, and 15 did not apply; and
- (b) a deemed safety authorisation as if regulation 11, 12 and 16 did not apply;
- (c) a deemed safety certificate or a deemed safety authorisation as if–
  - (i) regulations 13, 14 and 18 did not apply;
  - (ii) sub-paragraphs (a) and (b) of regulation 20(1) did not apply;
  - (iii) regulation 20(1)(d) referred to “the findings of an audit carried out pursuant to the arrangements referred to in paragraph 5(d) of Schedule 1 to the 2000 Regulations;”;
  - and
  - (iv) regulation 21(4)(a) and 21(5)(a)(i) referred to a deemed safety certificate or a deemed safety authorisation and the safety case to which it relates and as if the notified address referred to in regulation 21(3) were that notified in relation to the safety case in question under regulation 14 of the 2000 Regulations.

13. Notwithstanding the revocation of the 2000 Regulations, regulation 10 of the 2000 Regulations shall continue in effect in relation to the safety case to which a deemed safety certificate or deemed safety authorisation relates as it had effect on 1<sup>st</sup> October 2005 and for the purposes of this Schedule the reference to “any revision” in regulation 10 of the 2000 Regulations shall include a revision pursuant to paragraph 8.

14. For the purposes of this Schedule “the 2000 Regulations” means the Railways (Safety Case) Regulations 2000.

## SCHEDULE 6

Regulation 40

### CONSEQUENTIAL AMENDMENTS

#### **Amendment to the Railways and Other Transport Systems (Approval of Works, Plant and Equipment) Regulations 1994**

1.—(1) The Railways and Other Transport Systems (Approval of Works, Plant and Equipment) Regulations 1994 shall be amended as follows.

(2) In regulation 2(a) (interpretation)—

(a) after the definition of “approval” insert—

““mainline railway” has the meaning in regulation 2(1) of the Railways and Other Guided Transport Systems (Safety) Regulations 2005;”

(b) in the definition of “operator” for “relevant transport system” substitute “railway which is part of the mainline railway”;

(c) after the definition of “operator”, omit the definition of “prescribed system of guided transport”;

(d) in the definition of “relevant operational limitation”—

(i) in sub-paragraph (ii) omit the words in brackets;

(ii) in sub-paragraph (ix) for the words “transport system of which they form part” substitute “the mainline railway”; and

(e) after the definition of “relevant operational limitation”, omit the definition of “relevant transport system”.

(3) Regulation 3 (prescribed modes of guided transport) shall be omitted.

(4) In regulation 4 (requirement of approval)—

(a) in paragraph (1) for “a relevant transport system” substitute “the mainline railway” and for “system” substitute “the mainline railway”;

(b) at the end of paragraph (2)(a) omit “or”; and

(c) paragraphs (2)(b), (2B) and (6) shall be omitted.

(5) In regulation 5(4) (procedure for obtaining approval) for “relevant transport system” substitute “part of the mainline railway”.

(6) In regulation 6(1) (type approval of plant and equipment) for “a relevant transport system” substitute “the mainline railway”.

(7) In regulation 7(4) (use of type approved plant or equipment) for “a relevant transport system” substitute “the mainline railway”.

(8) Schedule 1 (prescribed modes of guided transport) shall be omitted.

(9) In paragraph B(f) of Part II (fixed plant and equipment) of Schedule 2 (documents to accompany an application for approval), for “relevant transport system” substitute “part of the mainline railway”.

### **Amendment to the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995**

2.—(1) The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995(a) shall be amended as follows.

(2) In regulation 2(1) (interpretation)–

(a) after the definition of “factory”, omit the definition of “guided transport system”;

(b) for the definition of “railway” substitute–

““railway” has the meaning assigned to it by regulation 2(1) of the Railways and Other Guided Transport Systems (Safety) Regulations 2005;”;

(c) for the definition of “relevant transport system” substitute–

““relevant transport system” means a transport system within the meaning of regulation 2(1) of the Railways and Other Guided Transport Systems (Safety) Regulations 2005;” and

(d) after the definition of “train” omit the definitions of “tramway” and “trolley vehicle system”.

### **Amendment to the Railway Safety (Miscellaneous Provisions) Regulations 1997**

3.—(1) The Railway Safety (Miscellaneous Provisions) Regulations 1997(b) shall be amended as follows.

(2) In regulation 2(1) (interpretation)–

(a) omit the definitions of “1994 Regulations”, “construction work” “prescribed system of guided transport”, “railway”, “street” and “tramway”; and

(b) for the definition of “transport system” substitute–

““transport system” has the meaning assigned to it by regulation 2(1) of the Railways and Other Guided Transport Systems (Safety) Regulations 2005;”.

### **Amendment to the Health and Safety (Enforcing Authority) Regulations 1998**

4.—(1) The Health and Safety (Enforcing Authority) Regulations 1998(c) shall be amended as follows.

(2) In regulation 2(1) (interpretation)–

(a) after the definition of “preparation dangerous for supply”, omit the definition of “prescribed system of guided transport”; and

(b) for the definition of “railway” substitute–

““railway” means a transport system within the meaning of regulation 2(1) of the Railways and Other Guided Transport Systems (Safety) Regulations 2005;”.

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(a) S.I. 1995/3163 as amended by S.I. 1997/2776, 1999/437, 1999/2024, 1999/2244 and 2004/568; there are other amendments not relevant to these Regulations.

(b) S.I. 1997/533, as amended by S.I. 1999/2024.

(c) S.I. 1998/ 494, as amended by S.I. 1999/2024 and 1999/3232 and to which there are other amendments not relevant to these Regulations.

**Amendment to the Railways Regulations 1998**

5.—(1) The Railways Regulations 1998(a) shall be amended as follows.

(2) In regulation 13 (safety certificates),

for paragraph (2) substitute—

“(2) For the purposes of paragraph (1) a safety certificate is any document issued by the Health and Safety Executive confirming that—

- (a) the railway undertaking or international grouping has a safety certificate pursuant to the Railways and Other Guided Transport Systems (Safety) Regulations 2005 (“the 2005 Regulations”) in respect of the operation of trains under the agreement; or
- (b) the railway undertaking or international grouping is exempt from the requirement to have a safety certificate pursuant to regulation 3 of the 2005 Regulations when it operates under the agreement.”.

**Amendment to the Railway Safety Regulations 1999**

6.—(1) The Railway Safety Regulations 1999(b) shall be amended as follows.

(2) In regulation 2 (interpretation)—

(a) in paragraph (1)—

(i) for the definition of “infrastructure controller” substitute—

““infrastructure controller” means a person who controls railway infrastructure;”;

(ii) after the definition of “railway” insert—

““railway infrastructure” means fixed assets used for the operation of a railway including its permanent way and plant used for signalling or exclusively for supplying electricity for operational purposes to the railway, but it does not include a station;”;

(iii) after the definition of “speed restriction” insert—

““station” means a railway passenger station or terminal, but does not include any permanent way or plant used for signalling or exclusively for supplying electricity for operational purposes to the railway;” and

(b) after paragraph (4) add—

“(4A) Any reference in these Regulations to a person who controls railway infrastructure is a reference to a person who—

- (a) in the course of a business or other undertaking carried on by him (whether for profit or not);
- (b) is in operational control of that infrastructure,

except that where such control is for the time being exercised by a person undertaking maintenance, repair or alteration work on the infrastructure, it is a reference to a person who would be in operational control of the infrastructure if such work were not being undertaken.”.

(3) in paragraph 2 to the Schedule (meaning of railway), for the definition of “tramway” substitute—

““tramway” means a system of transport used wholly or mainly for the carriage of passengers and—

(a) employing parallel rails which—

(i) provide support and guidance for vehicles carried on flanged wheels; and

(a) S.I. 1998/1340 as amended by S.I. 2001/3291 and to which there are other amendments not relevant to these Regulations.

(b) S.I. 1999/2244, as amended by S.I. 2000/2688 and 2001/3291.

- (ii) are laid wholly or partly along a street or in any other place to which the public has access (including a place to which the public only has access on making payment);
- (b) on any part of which the permitted speed is such as to enable the driver to stop a vehicle in the distance he can see ahead in clear weather conditions;”.

**Amendment to the Enterprise Act 2002 (Part 9 Restrictions on Disclosure of Information) (Amendment and Specification) Order 2003**

7.—(1) The Enterprise Act 2002 (Part 9 Restrictions on Disclosure of Information) (Amendment and Specification) Order 2003(a) shall be amended as follows.

(2) In Schedule 4 (subordinate legislation specified for the purposes of s241(3) (statutory functions) of the Enterprise Act 2002)–

- (a) omit the reference to the “Railways (Safety Case) Regulations 2000”; and
- (b) at the end add “Parts 2 and 3 of the Railways and Other Guided Transport Systems (Safety) Regulations 2005”.

**Amendment to the Health and Safety (Fees) Regulations 2005**

8.—(1) The Health and Safety (Fees) Regulations 2005(b) shall be amended as follows.

(2) For regulation 17 (fees payable in respect of railway safety functions) substitute–

**“Fees payable in respect of guided transport safety functions**

17.—(1) A fee shall be payable to the Executive by the person referred to in column 2 of Schedule 16 for the performance by the Executive of such functions conferred on the Executive as are specified in column 1 of that Schedule.

(2) A fee shall be payable to the Executive by a transport operator who holds a safety certificate or a safety authorisation pursuant to the 2005 Regulations for the performance by or on behalf of the Executive, or by an inspector appointed by it, of any function conferred on the Executive or the inspector by the 1974 Act which relates to the enforcement of any of the relevant statutory provisions against–

- (a) that transport operator in relation to the infrastructure, train or vehicle operation to which that safety certificate or safety authorisation relates;
- (b) a contractor in relation to work carried out by him on or in connection with that infrastructure or in connection with that train operation.

(3) In this regulation, regulation 21 and Schedule 16–

- (a) “the Approval Regulations” means the Railways and Other Transport Systems (Approval of Works, Plant and Equipment) Regulations 1994;
- (b) “the 2000 Regulations” means the Railways (Safety Case) Regulations 2000;
- (c) “the 2005 Regulations” means the Railways and Other Guided Transport Systems (Safety) Regulations 2005; and
- (d) “infrastructure”, “transport operator”, “safety authorisation”, “safety certificate and “train” have the same meanings as in the 2005 Regulations.”.

(3) In regulation 19 (provisions supplementary to regulations 16 to18)–

- (a) for paragraph (4) substitute–

“(4) Any reference in regulations 16 and 18 to a person who has prepared a safety case includes a reference to a person who is required to prepare a safety case, and in that

(a) S.I. 2003/1400.  
 (b) S.I. 2005/[ ].

connection as if any reference in those regulations to the installation or network to which the safety case relates were a reference to the installation or network to which the safety case would have related if it had been prepared in accordance with such requirement.”;

(b) after paragraph (4) add–

“(4A) Any reference in regulation 17 to a person who holds a safety certificate or a safety authorisation includes a reference to a person who is required to hold a safety certificate or safety authorisation, and in that connection as if any reference in that regulation to the infrastructure, train or vehicle operation to which that safety certificate or safety authorisation relates were a reference to the infrastructure, train or vehicle operation to which the safety certificate or safety authorisation would have related if it had been issued in accordance with such requirement;”;

(c) in paragraph (5)–

(i) for the words “regulations 16 and 17” substitute “regulation 16”; and

(ii) omit the words from “or (in the case of regulation 17)” to the end.

(4) For Schedule 16 (fees payable in respect of railway safety functions) substitute–

“

## SCHEDULE 16

Regulation 17

### FEES PAYABLE IN RESPECT OF RAILWAY SAFETY FUNCTIONS

<i>1</i> <i>Function</i>	<i>2</i> <i>Person by whom fee is payable</i>
Issue or amendment of a safety certificate or a safety authorisation	The applicant for the safety certificate or safety authorisation or for the amendment thereof
Assessing whether to grant an exemption pursuant to regulation 38 of the 2005 Regulations and granting any such exemption	The transport operator or other person who who has requested the exemption
Providing advice with respect to the preparation of an application for a safety certificate or a safety authorisation or an amended safety certificate or safety authorisation which is proposed to be sent to the Executive pursuant to any provision of the 2005 Regulations	The transport operator or person intending to become the transport operator who has requested that advice
Assessing a safety case or a revision to a safety case pursuant to the 2000 Regulations as saved by paragraph 3(a) to Schedule 5 of 2005 Regulations	The transport operator who has prepared that safety case or revision pursuant to those Regulations
Assessing whether to grant an approval and granting any such approval pursuant to any provision of the Approval Regulations and pursuant to those Regulations and	The operator or manufacturer (within the meaning of the Approval Regulations) who has made the application for the approval, or on whose behalf the application has been

Regulation 37(2) of the 2005 Regulations made

Assessing whether to make and making an order in relation to a level crossing pursuant to the Level Crossings Act 1983 and to an agreement made pursuant to section 13(1)(b) of the 1974 Act

The operator within the meaning of the Level Crossings Act 1983

Assessing whether to grant an exemption pursuant to regulation 6 of the Railway Safety Regulations 1999 and granting any such exemption

The railway operator who has requested the exemption

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**EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations impose prohibitions and requirements in relation to safety on railways and other guided transport systems.

Part 2 and regulation 20 of the Regulations implement, insofar as they apply to the mainline railway, in relation to Great Britain, Directive 2004/49/EC (O.J. No. L164, 30.04.04 p.44) of the European Parliament and the Council of 29<sup>th</sup> April 2004, on safety on the Community's railways and amending Council Directive 95/18/EC on the licensing of transport undertakings and Directive 2001/14/EC on the allocation of infrastructure capacity and the levying of charges for use of infrastructure and safety certification, except in relation to placing in service of in-use rolling stock and accident and incident investigation.

Part 1 contains the interpretation provisions. Part 2 contains prohibitions in relation to the operation of trains or vehicles on railways and other guided transport systems and the management and use of infrastructure unless a person has established and is maintaining a safety management system and in specified cases has a safety certificate in relation to the operation of vehicles or a safety authorisation in relation to the management and use of infrastructure. Part 2 also makes provision in relation to the requirements for a safety management system and the issuing, amendment and revocation of safety certificates and authorisations and for the giving of notices to the Health and Safety Executive.

Part 3 provides for general duties on transport operators subject to the duties in Part 2 to carry out risk assessment, co-operate with each other and certain other persons and to prepare an annual safety report to the Health and Safety Executive. It makes provision in relation to annual reports to the European Railway Agency and for the issuing, keeping and public inspection of documents.

Part 4 makes provision in relation to the carrying out of safety critical work on guided transport systems. It imposes obligations on those controlling the carrying out of such work to ensure that it is only carried out by fit and competent persons, that safety critical workers do not carry out such work when fatigued and related co-operation requirements.

Part 5 contains prohibitions in relation to first taking into service certain new or altered infrastructure or a vehicle on guided transport systems other than the mainline railway or carrying out tests or trials of such infrastructure or vehicle without meeting specified requirements. In relation to first taking into service this includes meeting Approved Safety Requirements to be approved by the Health and Safety Commission or where there are none the Safety Requirements in Schedule 4 and for a competent person to verify this by certificate.

Part 6 makes provision for appeals in relation to decisions relating to safety certificates and authorisations, for transitional provisions and savings in relation to compliance with the provisions of Parts 2, 4 and 5, provision for the granting of exemptions and for a defence in relation to Part 5. Regulation 40 also makes consequential amendments and regulation 41 revokes the Railways (Safety Case) Regulations 2000 and the Railways (Safety Critical Work) Regulations 1994.

A copy of the regulatory impact assessment and of the transposition note for Directive 2004/49/EC prepared in respect of these Regulations can be obtained from the Health and Safety Executive, Rose Court, 2 Southwark Bridge, London SE1 9HS. A copy of each has been placed in the library of each House of Parliament. [Publications referred to]