

2007 No. 48

HEALTH AND SAFETY

TRANSPORT

**The Railway Safety (Miscellaneous Provisions) Regulations
(Northern Ireland) 2007**

Made - - - - - *26th January 2007*

Coming into operation - - - - - *2nd March 2007*

The Department for Regional Development being the Department concerned (a), in exercise of the powers conferred on it by sections 17(1), (2), (5)(b),(6)(a) and (b), 17(3), 43(2) and 55(2) and of paragraphs 1(1)(c) and 17(a) of Schedule 3 to the Health and Safety at Work (Northern Ireland) Order 1978 (b) and of every other power enabling it in that behalf, and after consultation as required by Article 46(1) (c) of that Order with the Health and Safety Executive for Northern Ireland and such other bodies as appeared to the Department to be appropriate, hereby makes the following Regulations:

Citation and Commencement

1. These Regulations may be cited as the Railway Safety (Miscellaneous Provisions) Regulations (Northern Ireland) 2007 and shall come into operation on the 2nd day of March 2007.

Interpretation

2.—(1) In these Regulations—

“buffer stop” means a buffer stop at the end of a passenger platform

“the Department” means the Department for Regional Development;

“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 is of a gauge of at least 350 millimetres,

except that it does not include any part of a railway system—

(c) within a maintenance or goods depot where access is adequately controlled. or

(d) if on no part of the railway system there is a line speed exceeding 25mph;

“railway infrastructure” means fixed assets used for the operation of a railway including its permanent way, plant used for signalling and stations;

(a) See Article 2(2) of SI 1978/1039 (N.I.9)

(b) 1978 SI 1978/1039 (N.I.9); the general purposes of part II referred to in article 17(1) were extended by section 1 of the Railway Safety Act (Northern Ireland) 2002; Article 55 was amended by SI 1998/2795 (N.I. 18) Article 6(1) and paragraphs 13 and 19 of Schedule 1.

(c) Article 46 was amended by SI 1998/2795 (N.I.18), Article 6(1) and paragraph 18 of Schedule 1.

“station” means a passenger station or terminal of a railway system but does not include any permanent way or plant used for signalling.

“train of vehicles” means two or more vehicles attached to each other which are being used on a railway;

“vehicle” means a vehicle which is being used on a railway and includes a mobile traction unit;

(2) Any reference in these Regulations to a person in control of any railway infrastructure, is a reference to a person who, in the course of a business or other undertaking carried on by him (whether for profit or not), 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) Any reference in these Regulations to a person operating a vehicle is a reference to the person operating the 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 himself drives or otherwise controls the movement of a vehicle.

(4) Any reference in these Regulations to the maintenance of any equipment is a reference to –

- (a) The maintenance of that equipment in an efficient state, in efficient working order and in good repair; and
- (b) Where appropriate, subjecting that equipment to a suitable system of maintenance.

Unauthorised access

3.—(1) So far as is reasonably practicable, a person in control of any railway infrastructure, to which this Regulation applies shall ensure, where and to the extent necessary for safety, that unauthorised access to that infrastructure is prevented.

(2) In paragraph (1) “access” means access by any person not at work on the railway, or by any animal which might damage or derail a train or other vehicle.

(3) Breach of a duty imposed by this regulation shall not confer a right of action in any civil proceedings.

Means of communication

4. The operator of a vehicle which is being used for the carriage of fare paying passengers shall ensure that there is provided and maintained on such a vehicle suitable and sufficient means whereby passengers can communicate with a person who is in a position to take appropriate action in the event of an emergency.

Measures to prevent collisions and derailments

5.—(1) A person in control of any railway infrastructure shall ensure, so far as is reasonably practicable, that —

- (a) appropriate procedures are in place;
- (b) where appropriate, equipment which is suitable and sufficient is provided and maintained, for the purpose of preventing any of the events referred to in paragraph (2).

(2) The events referred to in paragraph (1) are—

- (a) collisions between vehicles;
- (b) collisions between vehicles and buffer-stops;
- (c) the derailment of vehicles on account of excessive speed or incorrectly set points.

Brakes

6. The operator of a vehicle shall ensure that a suitable and sufficient braking system is provided and maintained for that vehicle and, where the vehicle is part of a train of vehicles, for that train of vehicles.

Accidents to persons at work from moving vehicles

7.—(1) A person to whom this regulation applies shall ensure, so far as is reasonably practicable and insofar as they are matters within his control, that —

- (a) appropriate procedures are in place;
- (b) where appropriate, equipment which is suitable and sufficient is provided and maintained, for the purpose of preventing any person at work on a railway from being struck by, or falling from, a moving vehicle.

(2) This regulation applies to —

- (a) A person in control of any infrastructure;
- (b) An operator of a vehicle;
- (c) An employer of a person at work on a railway;
- (d) A self-employed person as it applies to an employer and a person at work on a railway as if that self-employed person were both the employer and the person at work.

Exemptions

8.—(1) Subject to paragraph (2) the Department may, by a certificate in writing, exempt any person or class of persons from any requirement imposed by these Regulations and any such exemption may be granted subject to conditions and to a limit of time and may be revoked by a further certificate in writing at any time.

(2) The Department shall not grant any such exemptions 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 apply 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.

(3) 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 the requirements of these Regulations and any such exemption may be granted subject to conditions and to a limit of time and may be revoked by the said Secretary of State by a further certificate in writing at any time.

Defence

9.—(1) In any proceedings for an offence for a contravention of any of the provisions of these Regulations it shall be a defence for the person charged to prove —

- (a) that the contravention was due to the act or default of another person not being one of his employees (hereinafter called “the other person”); and
- (b) that he took all reasonable precautions and exercised all due diligence to avoid the contravention.

(2) The person charged shall not, without leave of the court, be entitled to rely on the defence referred to in paragraph (1) above unless, within a period ending seven clear days before the hearing to determine mode of trial he has served on the prosecutor a notice in writing giving such information identifying or assisting in the identification of the other person as was in his possession.

(3) Where a contravention of any of the provisions of these Regulations by any person is due to the act or default of some other person, that other person shall be guilty of the offence which

would, but for any defence under this regulation available to the first-mentioned person, be constituted by the act or default.

Sealed with the Official Seal of the Department for Regional Development on 26 January 2007



B. R. D. White
A senior officer of the Department

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision with regard to the safe operation of railways. They also make other provisions.

Regulation 3 places a duty on infrastructure controllers so far as is reasonably practicable and where and to the extent necessary for safety, to prevent unauthorised access to the infrastructure of railways (subject to specified exceptions).

Regulation 4 places a duty on operators of vehicles being used for the carriage of fare paying passengers to provide and maintain means of communication between passengers and a person who is in a position to take appropriate action in an emergency.

Regulation 5 provides for infrastructure controllers to ensure so far as is reasonably practicable, that procedures are in place and equipment is provided and maintained for the purpose of preventing collisions and derailments.

Regulation 6 places a duty on vehicle operators to provide and maintain suitable and sufficient braking systems for their vehicles.

Regulation 7 provides for specified persons to ensure, so far as is reasonably practicable, that procedures are in place and equipment is provided and maintained for the purpose of preventing persons at work on a railway system from being struck by or falling from a moving vehicle.

Regulation 8 provides for certificates of exemption to be granted by the Department for Regional Development. Regulation 9 provides a defence to any offence under these Regulations where the person charged has taken all reasonable precautions and exercised all due diligence.

Regulation 10 provides for enforcement of these Regulations by the Department.

A person who contravenes the Regulations is guilty of an offence under Article 31 of the Health and Safety at Work (Northern Ireland) Order 1978 and is liable, on summary conviction to a fine not exceeding the statutory maximum (currently £5,000) or, on conviction on indictment, to a fine.