



# Railways and Transport Safety Act 2003

## 2003 CHAPTER 20

### PART 1

#### INVESTIGATION OF RAILWAY ACCIDENTS

##### *Investigation by Branch*

## 7 Investigations

- (1) The Rail Accident Investigation Branch—
  - (a) shall investigate any serious railway accident,
  - (b) may investigate a non-serious railway accident or a railway incident, and
  - (c) shall investigate a non-serious railway accident or a railway incident if required to do so by or in accordance with regulations made by the Secretary of State.
- (2) For the purposes of subsection (1)(a) a tramway shall not be treated as a railway (despite section 1(1)).
- (3) In investigating an accident or incident the Branch shall try to determine what caused it.
- (4) On completion of an investigation the Branch shall report to the Secretary of State.
- (5) In performing a function in relation to an accident or incident the Branch—
  - (a) shall not consider or determine blame or liability, but
  - (b) may determine and report on a cause of an accident or incident whether or not blame or liability is likely to be inferred from the determination or report.
- (6) The Branch may conduct an investigation and report whether or not civil or criminal proceedings are in progress or may be instituted (but this subsection is without prejudice to the operation of the law of contempt of court).
- (7) The Chief Inspector of Rail Accidents may apply to the High Court or the Crown Court for a declaration that the making of a report in connection with a specified accident

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*Changes to legislation: There are currently no known outstanding effects for the Railways and Transport Safety Act 2003, Cross Heading: Investigation by Branch. (See end of Document for details)*

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or incident will not amount to a contempt of court in relation to civil or criminal proceedings which have been or may be instituted in connection with the accident or incident.

- (8) The Chief Inspector of Rail Accidents may reopen an investigation if he believes that significant new evidence may be available.

#### Commencement Information

**II** S. 7 in force at 17.10.2005 by S.I. 2005/1991, art. 2(1)(2)(vii)

## 8 Investigator's powers

- (1) For the purpose of conducting an investigation by virtue of section 7 an inspector of rail accidents may, provided that he produces evidence of his identity if asked to do so—
- (a) enter railway property;
  - (b) enter land (which may include a dwelling-house) which adjoins or abuts railway property;
  - (c) enter a vehicle or structure which is on railway property or which is on land which could be entered under paragraph (b);
  - (d) enter land which does not fall within paragraph (a), (b) or (c) if—
    - (i) it is used wholly or partly for the purposes of or in connection with anything done on or with railway property, or
    - (ii) the inspector reasonably believes that it may contain evidence relating to an accident or incident;
  - (e) in entering anything under paragraph (a), (b), (c) or (d), be accompanied by one or more persons authorised by the Chief Inspector of Rail Accidents for that purpose (whether generally or specifically);
  - (f) in entering anything under paragraph (a), (b), (c) or (d), make arrangements to have with him equipment or materials.
- (2) For the purpose of conducting an investigation by virtue of section 7 an inspector of rail accidents may—
- (a) make a written, electronic, photographic or other record;
  - (b) remove and retain samples;
  - (c) arrange for anything to be removed and retained for the purpose of analysis or other examination or for the purpose of preserving evidence;
  - (d) require access to a record or to recording equipment;
  - (e) require a person to answer a question;
  - (f) require a person to provide information;
  - (g) require a person to disclose a record;
  - (h) require a person to provide a copy of a record;
  - (i) require disclosure of the result of an examination of a person, body or thing;
  - (j) require a person to certify the truth, accuracy or authenticity of a statement made, of information or a document provided or of a record disclosed.
- (3) A person commits an offence if without reasonable excuse he—
- (a) fails to comply with a requirement imposed by an inspector of rail accidents for the purpose of an investigation by virtue of section 7,

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- (b) makes a statement for the purpose of an investigation by virtue of section 7 knowing or suspecting that the statement is inaccurate or misleading,
  - (c) provides information or a record for the purpose of an investigation by virtue of section 7 knowing or suspecting that the information or record is inaccurate or misleading,
  - (d) obstructs an inspector of rail accidents in the course of his conduct of an investigation by virtue of section 7,
  - (e) obstructs a person accompanying an inspector of rail accidents under subsection (1)(e), or
  - (f) obstructs a person exercising a power of an inspector by virtue of regulations under section 9(1)(d).
- (4) A person who is guilty of an offence under subsection (3) shall be liable on summary conviction to—
- (a) imprisonment for a term not exceeding 51 weeks,
  - (b) a fine not exceeding level 5 on the standard scale, or
  - (c) both.
- (5) Subsection (6) applies where—
- (a) the Rail Accident Investigation Branch is conducting an investigation by virtue of section 7 in respect of an accident or incident, and
  - (b) a question arises as to the desirability of action which any other person proposes to take for the purpose of investigating the accident or incident.
- (6) The question may be determined by—
- (a) the Chief Inspector of Rail Accidents, or
  - (b) an inspector of rail accidents acting on behalf of the Chief Inspector.

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**Commencement Information**

**I2** S. 8 in force at 17.10.2005 by [S.I. 2005/1991](#), [art. 2\(1\)\(2\)\(viii\)](#)

## 9 Regulations

- (1) The Secretary of State may make regulations about the conduct of investigations by the Rail Accident Investigation Branch; in particular, the regulations may—
- (a) confer a function on the Chief Inspector of Rail Accidents or on the Branch;
  - (b) make provision about the way in which a function of the Chief Inspector or the Branch is to be performed;
  - (c) permit or require the Chief Inspector to appoint a person to conduct or participate in an investigation;
  - (d) provide for a power of an inspector to be exercisable by a person conducting or participating in an investigation by virtue of paragraph (c);
  - (e) permit or require the Chief Inspector to request assistance from another person;
  - (f) permit or require another person to assist the Chief Inspector.
- (2) The regulations may make provision about the preparation, form, content and publication of a report made by the Branch under section 7; in particular, the regulations may—

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- (a) require a report to address the question of what caused an accident or incident;
  - (b) require or permit a report to make, or not to make, a recommendation;
  - (c) require or permit the preparation and publication by the Branch of an interim report;
  - (d) require the Branch to give an opportunity to a person interested in an investigation to comment on a draft report or draft interim report;
  - (e) require the Branch to notify a person of the content of a report or interim report before publication;
  - (f) require the Branch to give a copy of a report or interim report to a person;
  - (g) make provision about the timing of publication.
- (3) A reference to a report by the Branch in section 7 includes a reference to an interim report permitted or required by virtue of subsection (2) above.
- (4) The Secretary of State may make regulations about the use, disclosure and destruction of information acquired by the Branch; in particular, the regulations may—
- (a) prohibit the disclosure of information in specified circumstances;
  - (b) permit the disclosure of information in specified circumstances;
  - (c) require the disclosure of information in specified circumstances;
  - (d) make provision by reference to whether or not a person consents to a disclosure which relates to him.
- (5) Regulations under this section may—
- (a) create an offence (but not an offence punishable by imprisonment);
  - (b) confer a discretionary function;
  - (c) confer jurisdiction on a court or tribunal.

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**Commencement Information**

**I3** S. 9 in force at 17.10.2005 by [S.I. 2005/1991](#), [art. 2\(1\)\(2\)\(ix\)](#)

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