



Railways and Transport Safety Act 2003

2003 CHAPTER 20

PART 1

INVESTIGATION OF RAILWAY ACCIDENTS

Introduction

1 Meaning of “railway” and “railway property”

(1) In this Part—

“railway” means a railway or tramway within the meaning given by section 67 of the Transport and Works Act 1992 (c. 42), and

“railway property” means anything which falls within the definition of “light maintenance depot”, “network”, “rolling stock”, “station” or “track” in section 83 of the Railways Act 1993 (c. 43), or which falls within the equivalent of any those definitions in relation to a tramway.

(2) The Secretary of State may by regulations amend this section.

(3) This section is subject to section 14(2).

2 Meaning of “railway accident” and “railway incident”

(1) In this Part a reference to a railway accident or railway incident is a reference to an accident or incident which occurs on railway property in so far as it is or may be relevant to the operation of the railway.

(2) The Secretary of State may by regulations—

- (a) make provision about what is to be or not to be treated as an accident or incident for the purposes of this Part;
- (b) make provision about circumstances in which an accident or incident is to be or not to be treated as being relevant to the operation of a railway for the purposes of this Part;

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- (c) make provision about when an accident is to be treated as serious for the purposes of this Part.
- (3) Regulations under subsection (2) may, in particular, make provision by reference to—
 - (a) location;
 - (b) the exercise of a discretion by the Chief Inspector of Rail Accidents or another specified person.
- (4) Regulations under subsection (2) making provision about what is to be treated as an incident may, in particular, include an event or omission which does not cause damage or loss but which might cause damage or loss in different circumstances.

The Rail Accident Investigation Branch

3 Establishment

- (1) The Secretary of State shall appoint persons as inspectors of rail accidents.
- (2) The Secretary of State shall appoint one of the inspectors as the Chief Inspector of Rail Accidents.
- (3) The inspectors appointed under this section may be referred to as the Rail Accident Investigation Branch (being a branch of the department of the Secretary of State who appoints them).
- (4) An inspector of rail accidents shall carry out such of the functions of the Rail Accident Investigation Branch as may be assigned to him by the Chief Inspector of Rail Accidents.

4 General aims

In exercising their functions the Rail Accident Investigation Branch shall, wherever relevant, aim—

- (a) to improve the safety of railways, and
- (b) to prevent railway accidents and railway incidents.

5 Assistance to others

The Chief Inspector of Rail Accidents may arrange for the Rail Accident Investigation Branch to assist any person; in particular, assistance—

- (a) may be provided with or without charge;
- (b) may be provided inside or outside the United Kingdom.

6 Annual report

- (1) The Secretary of State shall make regulations requiring the Chief Inspector of Rail Accidents to produce once in each calendar year a report in connection with the activities of the Rail Accident Investigation Branch.
- (2) Regulations under subsection (1) may, in particular, make provision about—
 - (a) timing of reports;
 - (b) content of reports;

- (c) publication and other treatment of reports.

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 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.

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

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- (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,
 - (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.

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—
- (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.

*Investigation by industry***10 Requirement to investigate**

- (1) The Chief Inspector of Rail Accidents may direct that any railway accident or railway incident of a specified kind or which occurs in specified circumstances shall be investigated by each person who manages or controls, or participates in managing or controlling, all or any part of railway property—
 - (a) on which the accident or incident takes place, or
 - (b) which is involved in the accident or incident.
- (2) A direction—
 - (a) shall specify the manner in which the investigation is to be conducted, and
 - (b) may make provision for a case where more than one person would be required to conduct an investigation, whether by requiring a joint investigation or by requiring or enabling one or more persons to conduct an investigation on behalf of others.
- (3) A person to whom a direction under subsection (1) applies commits an offence if he fails to comply with it.
- (4) A person guilty of an offence under subsection (3) shall be liable—
 - (a) on summary conviction, to a fine not exceeding the statutory maximum, or
 - (b) on conviction on indictment, to a fine.
- (5) The Chief Inspector shall publish a direction issued by him under subsection (1) in a manner which he considers will bring it to the attention of each person who is likely to be required to comply with it.
- (6) But in proceedings against a person for an offence under subsection (3) of failing to comply with a direction it shall not be necessary to prove that he was aware of the direction.
- (7) A direction under subsection (1)—
 - (a) may make provision which applies generally or only in specified circumstances,
 - (b) may make different provision for different cases or circumstances, and
 - (c) may be varied or revoked by a further direction.

*Accident regulations***11 Accident regulations**

- (1) The Secretary of State may make regulations in connection with the investigation of railway accidents and railway incidents.
- (2) The regulations may, in particular—
 - (a) require a person to notify the Rail Accident Investigation Branch of a railway accident or railway incident, and
 - (b) make provision about the timing, form and content of notice given by virtue of paragraph (a).

- (3) The regulations may, in particular, require a person to take or not to take specified action following an accident or incident—
 - (a) pending the commencement of an investigation, or
 - (b) during the process of an investigation.
- (4) The regulations may—
 - (a) create an offence (but not an offence punishable by a term of imprisonment exceeding the maximum term which may be imposed by a magistrates' court in accordance with section 78 of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6));
 - (b) confer a discretionary function;
 - (c) confer jurisdiction on a court or tribunal.

General

12 Crown application

This Part applies in relation to property irrespective of whether it belongs to or is used for the purposes of the Crown or a Duchy.

13 Regulations

- (1) Regulations under this Part—
 - (a) may make provision which applies generally or only in specified cases or circumstances,
 - (b) may make different provision for different cases or circumstances, and
 - (c) may include transitional, consequential or incidental provision.
- (2) Regulations under this Part shall be made by statutory instrument.
- (3) Regulations under section 1(2) shall not be made unless a draft has been laid before and approved by resolution of each House of Parliament.
- (4) Other regulations under this Part shall be subject to annulment in pursuance of a resolution of either House of Parliament.

14 Extent

- (1) This Part extends to the whole of the United Kingdom.
- (2) In the application of this Part in relation to Scotland any reference to a tramway shall be disregarded.
- (3) In the application of this Part in relation to Northern Ireland the maximum term for the purposes of sections 8(4)(a) and 11(4)(a) shall be 12 months.