



# Railways and Transport Safety Act 2003

## 2003 CHAPTER 20

### PART 6

#### MISCELLANEOUS

#### **103 Convention on International Carriage by Rail**

- (1) The Secretary of State may make regulations for the purpose of giving effect to the Convention concerning International Carriage by Rail signed at Berne on 9th May 1980 as set out in the Annex to the modifying Protocol signed at Vilnius on 3rd June 1999.
- (2) Schedule 6 shall have effect (provision which may be made by regulations in connection with that Convention made under subsection (1) above or under section 2 of the European Communities Act 1972 (c. 68) (implementation of Community obligations)).
- (3) Regulations made under or by virtue of this section shall bind the Crown except in so far as they provide to the contrary.
- (4) Regulations made under this section shall be made by statutory instrument.
- (5) Regulations made under or by virtue of this section may not be made unless a draft has been laid before and approved by resolution of each House of Parliament.
- (6) This section extends to the whole of the United Kingdom.

#### **104 Office of Rail Regulation: general duties**

In section 4(5)(c) of the Railways Act 1993 (c. 43) (duty of the Office of Rail Regulation (formerly the Regulator): duty to have regard to position of Strategic Rail Authority) the words “under this Part” shall cease to have effect.

**105 Railways safety levy**

- (1) The following shall be inserted after section 43 of the Health and Safety at Work etc. Act 1974 (c. 37) (financial provision)—

**“43A Railway safety levy**

- (1) The Secretary of State may make regulations requiring persons who provide railway services to pay railway safety levy.
- (2) Railway safety levy shall be applied only for the purpose of meeting expenses incurred—
- (a) in respect of activity undertaken by the Executive in reliance on section 117 of the Railways Act 1993 (safety of railways, &c.), or
  - (b) in respect of activity undertaken by the Executive, under or by virtue of any other enactment, in relation to a transport system to which that section applies.
- (3) The railway safety levy shall not be used to meet—
- (a) an expense in respect of which a fee is payable under regulations made under section 43, or
  - (b) an expense in respect of a matter specified by the regulations for the purpose of this paragraph.
- (4) Where an expense is incurred partly in respect of activity within subsection (2) (a) or (b) and partly in respect of other activity, the railway safety levy may be used to meet a part of that expense which is reasonably referable to activity within subsection (2)(a) or (b).
- (5) Regulations under subsection (1) may, in particular, determine or enable the Commission or the Executive to determine—
- (a) the total amount of the railway safety levy to be imposed in respect of a specified period;
  - (b) the persons by whom the levy is to be paid;
  - (c) the criteria for assessing the proportion of the levy to be paid by a particular person (which may, in particular, refer to the size of a person’s income or provide for an amount to be reduced or waived in specified circumstances);
  - (d) the periods in respect of which the levy is to be paid;
  - (e) the manner in which the levy is to be paid;
  - (f) the person to whom the levy is to be paid;
  - (g) when the levy is to be paid.
- (6) Regulations under subsection (1) may, in particular, enable the Commission or the Executive—
- (a) to require a person who provides railway services to supply information for the purposes of the consideration of a matter specified in subsection (5);
  - (b) where information requested is not supplied, to make assumptions;
  - (c) to revise a determination of a matter specified in subsection (5) (whether before, during or after the period to which it relates);
  - (d) to make refunds.

- (7) Regulations by virtue of subsection (6)(a) may, in particular, make provision—
  - (a) about the manner and timing of the supply of information;
  - (b) about certification of the accuracy of information supplied;
  - (c) creating a criminal offence in connection with the supply of inaccurate or misleading information (but not an offence punishable with imprisonment).
- (8) Regulations under subsection (1) may enable payment to be enforced by civil proceeding.
- (9) For the purposes of this section a person provides railway services if he manages or controls, or participates in managing or controlling, a transport system to which section 117 of the Railways Act 1993 applies.”
- (2) In section 28(1)(a) of that Act (restriction on disclosure of information) after “27A above” insert “, by virtue of section 43A(6) below”.
- (3) In section 82 of that Act (general provisions)—
  - (a) in subsection (3)(b) after “which” insert “(unless subsection (4) applies)”, and
  - (b) after subsection (3) insert—
    - “(4) The first regulations under section 43A(1) shall not be made unless a draft has been laid before and approved by resolution of each House of Parliament.”

## 106 Railway security services

The following shall be inserted after section 121 of the Railways Act 1993 (c. 43) (security: inspection)—

### “121A Railway security services: approved providers

- (1) In this section “railway security service” means a process or activity carried out for the purpose of—
  - (a) complying with a requirement of an instruction under section 119, or
  - (b) facilitating a person’s compliance with a requirement of an instruction under section 119.
- (2) Regulations may provide for the Secretary of State to maintain a list of persons who are approved by him for the provision of a particular railway security service.
- (3) The regulations may—
  - (a) prohibit the provision of a railway security service by a person who is not listed in respect of that service;
  - (b) prohibit the use or engagement for the provision of a railway security service of a person who is not listed in respect of that service;
  - (c) create a criminal offence;
  - (d) make provision about application for inclusion in the list (including provision about fees);

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- (e) make provision about the duration and renewal of entries on the list (including provision about fees);
  - (f) make provision about training or qualifications which persons who apply to be listed or who are listed are required to undergo or possess;
  - (g) make provision about removal from the list which shall include provision for appeal;
  - (h) make provision about the inspection of activities carried out by listed persons;
  - (i) confer functions on the Secretary of State or on a specified person;
  - (j) confer jurisdiction on a court.
- (4) Regulations under subsection (3)(c)—
- (a) may not provide for a penalty on summary conviction greater than a fine not exceeding the statutory maximum,
  - (b) may not provide for a penalty of imprisonment on conviction on indictment greater than imprisonment for a term not exceeding two years (whether or not accompanied by a fine), and
  - (c) may create a criminal offence of purporting, with intent to deceive, to do something as a listed person or of doing something, with intent to deceive, which purports to be done by a listed person.
- (5) An instruction under section 119 may—
- (a) include a requirement to use a listed person for the provision of a railway security service;
  - (b) provide for all or part of the instruction not to apply or to apply with modified effect where a listed person provides a railway security service.
- (6) Regulations under this section—
- (a) may make different provision for different cases,
  - (b) may include incidental, supplemental or transitional provision,
  - (c) shall be made by the Secretary of State by statutory instrument,
  - (d) shall not be made unless the Secretary of State has consulted organisations appearing to him to represent persons affected by the regulations, and
  - (e) shall be subject to annulment in pursuance of resolution of either House of Parliament.”

#### **107 Road traffic: testing for drink and drugs**

Schedule 7 shall have effect.

#### **108 Traffic regulation on long distance routes**

The following shall be inserted after section 22A of the Road Traffic Regulation Act 1984 (c. 27) (traffic regulation for purpose of conserving natural beauty)—

### **“22B Traffic regulation on long distance routes**

- (1) This section applies where the Secretary of State thinks that, because of the use of a long distance route by vehicular traffic, members of the public cannot safely and conveniently—
  - (a) enjoy the amenities of any part of the route or of the area through which the route runs;
  - (b) take advantage of opportunities for recreation in any part of that area;
  - (c) study nature in any part of that area.
- (2) The Secretary of State may make an order preventing the use of the route or a specified part of the route—
  - (a) by vehicular traffic, or
  - (b) by vehicular traffic of a specified kind.
- (3) An order under this section may have effect only in relation to a long distance route which is, or in so far as it is, in England.
- (4) An order under this section shall be treated for all purposes as if it were a traffic regulation order made by the Secretary of State in relation to a road for which he is the traffic authority (and, in particular, any provision of this Act about the making or effect of such an order shall apply).”.

### **109 Road traffic: fixed penalty**

- (1) In section 76(2)(a) of the Road Traffic Offenders Act 1988 (c. 53) (fixed penalty) the words “of police” shall cease to have effect.
- (2) This section shall extend only to England and Wales.

### **110 Seat belts: delivery drivers**

The following shall be substituted for section 14(2)(b)(i) of the Road Traffic Act 1988 (c. 52) (seat belts: exceptions: delivery drivers)—

“(i) the driver of or a passenger in a motor vehicle constructed or adapted for carrying goods, while on a journey which does not exceed the prescribed distance and which is undertaken for the purpose of delivering or collecting any thing,”.

### **111 Highways: snow and ice**

After section 41(1) of the Highways Act 1980 (c. 66) (duty of highway authority to maintain highway) insert—

“(1A) In particular, a highway authority are under a duty to ensure, so far as is reasonably practicable, that safe passage along a highway is not endangered by snow or ice.”

### **112 Shipping legislation: application to structures, craft, &c.**

- (1) The Secretary of State may by order—

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- (a) provide for a shipping provision to apply (with or without modification) in relation to specified things which are used, navigated or situated wholly or partly in or on water;
  - (b) provide for a shipping provision not to apply in relation to specified things which are used, navigated or situated wholly or partly in or on water;
  - (c) modify a shipping provision in its application in relation to specified things which are used, navigated or situated wholly or partly in or on water.
- (2) In this section “shipping provision” means a provision which—
- (a) is made by or by virtue of an Act (including this Act), and
  - (b) is expressed to apply in relation to ships, vessels or boats (or a specified class or description of ship, vessel or boat).
- (3) An order under subsection (1) may, in particular, be made in respect of a provision which—
- (a) confers power to legislate, or
  - (b) creates an offence.
- (4) An order under subsection (1) shall have effect despite (and may amend) any provision which—
- (a) forms part of or relates to the shipping provision concerned, and
  - (b) defines “ship”, “vessel” or “boat” or in any other way limits or determines the application of the shipping provision concerned.
- (5) An order under subsection (1) may—
- (a) make different provision for different purposes;
  - (b) make provision for an individual case;
  - (c) make provision which applies only in specified circumstances;
  - (d) make transitional provision.
- (6) An order under subsection (1)(a) or (c) may provide for the shipping provision not to apply, or to apply with specified modifications, where it would conflict with a specified provision or class of provision made by or by virtue of an enactment.
- (7) An order under subsection (1)—
- (a) shall be made by statutory instrument,
  - (b) shall be subject to annulment in pursuance of a resolution of either House of Parliament, and
  - (c) shall not be made unless the Secretary of State has consulted with organisations in the United Kingdom which appear to him to be representative of persons who will be affected by the order.
- (8) Section 311 of the Merchant Shipping Act 1995 (c. 21) (application of Act to structures, &c.) shall cease to have effect.
- (9) This section extends to the whole of the United Kingdom.

### 113 Maritime security services

The following shall be inserted after section 36 of the Aviation and Maritime Security Act 1990 (c. 31) (security directions: inspection)—

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### **“36A Maritime security services: approved providers**

- (1) In this section “maritime security service” means a process or activity carried out for the purpose of—
  - (a) complying with a requirement of a direction under any of sections 21 to 24, or
  - (b) facilitating a person’s compliance with a requirement of a direction under any of those sections.
- (2) Regulations may provide for the Secretary of State to maintain a list of persons who are approved by him for the provision of a particular maritime security service.
- (3) The regulations may—
  - (a) prohibit the provision of a maritime security service by a person who is not listed in respect of that service;
  - (b) prohibit the use or engagement for the provision of a maritime security service of a person who is not listed in respect of that service;
  - (c) create a criminal offence;
  - (d) make provision about application for inclusion in the list (including provision about fees);
  - (e) make provision about the duration and renewal of entries on the list (including provision about fees);
  - (f) make provision about training or qualifications which persons who apply to be listed or who are listed are required to undergo or possess;
  - (g) make provision about removal from the list which shall include provision for appeal;
  - (h) make provision about the inspection of activities carried out by listed persons;
  - (i) confer functions on the Secretary of State or on a specified person;
  - (j) confer jurisdiction on a court.
- (4) Regulations under subsection (3)(c)—
  - (a) may not provide for a penalty on summary conviction greater than a fine not exceeding the statutory maximum,
  - (b) may not provide for a penalty of imprisonment on conviction on indictment greater than imprisonment for a term not exceeding two years (whether or not accompanied by a fine), and
  - (c) may create a criminal offence of purporting, with intent to deceive, to do something as a listed person or of doing something, with intent to deceive, which purports to be done by a listed person.
- (5) A direction under any of sections 21 to 24 may—
  - (a) include a requirement to use a listed person for the provision of a maritime security service;
  - (b) provide for all or part of the direction not to apply or to apply with modified effect where a listed person provides a maritime security service.
- (6) Regulations under this section—

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- (a) may make different provision for different cases,
- (b) may include incidental, supplemental or transitional provision,
- (c) shall be made by the Secretary of State by statutory instrument,
- (d) shall not be made unless the Secretary of State has consulted organisations appearing to him to represent persons affected by the regulations, and
- (e) shall be subject to annulment in pursuance of resolution of either House of Parliament.”

#### **114 Railways in London: transfers**

- (1) A scheme under section 409(1) or (2) of the Greater London Authority Act 1999 (c. 29) (transfer schemes) which transfers property, rights or liabilities—
  - (a) from London Regional Transport or a subsidiary of London Regional Transport, and
  - (b) to Transport for London or a subsidiary of Transport for London,
 may provide that section 412(3) of that Act (transfer not to trigger or breach contractual provision) shall not apply in relation to the transfer.
- (2) A transfer scheme within the meaning of paragraph 1 of Schedule 12 to that Act (schemes made by Transport for London) which transfers property, rights or liabilities may provide that paragraph 2(3) of that Schedule (transfer not to trigger or breach contractual provision) shall not apply in relation to the transfer.
- (3) Provision included in a scheme by virtue of subsection (1) or (2) may disapply section 412(3) of, or paragraph 2(3) of Schedule 12 to, that Act—
  - (a) generally,
  - (b) only in relation to a specified contract or instrument, or class of contract or instrument,
  - (c) only in relation to a specified right, class of right, provision or class of provision,
  - (d) only in relation to a specified transfer, or
  - (e) by reference to a combination of matters mentioned in paragraphs (b) to (d).
- (4) Paragraph 2(3) of Schedule 12 to that Act shall not apply in respect of the transfer of property, rights or liabilities which—
  - (a) have been transferred under a scheme which provided for section 412(3) not to apply in relation to the transfer in reliance on subsection (1) above, or
  - (b) arise out of property, rights or liabilities transferred as described in paragraph (a).
- (5) Before the date on which London Underground Limited becomes a subsidiary of Transport for London—
  - (a) section 217 of that Act (transfer of key system assets) shall have effect as if—
    - (i) the reference to Transport for London in subsection (1) included a reference to London Regional Transport, and
    - (ii) the list of bodies in subsection (2) included London Underground Limited and any subsidiary,
  - (b) section 221 of that Act (Public-Private Partnership administration order) shall have effect as if a reference to the Mayor were a reference to London Regional Transport,



- (c) section 222 of that Act (restriction on winding-up Public-Private Partnership company) shall have effect as if a reference to the Mayor were a reference to London Regional Transport, and
  - (d) Schedules 14 and 15 to that Act (Public-Private Partnership administration order) shall have effect (including in so far as they modify another enactment) as if a reference to the Mayor were a reference to London Regional Transport.
- (6) Section 425(3) of that Act (restriction on commencement of sections 220 to 224) shall cease to have effect.

## **115 Railways in London: information**

- (1) The enactments listed in subsection (2) shall not prevent or restrict the provision of information to the Public-Private Partnership Agreement Arbiter appointed under section 225(1) of the Greater London Authority Act 1999 (c. 29).
- (2) Those enactments are—
- (a) section 133 of the Fair Trading Act 1973 (c. 41),
  - (b) section 174 of the Consumer Credit Act 1974 (c. 39),
  - (c) section 10 of the Estate Agents Act 1979 (c. 38),
  - (d) section 19 of the Competition Act 1980 (c. 21),
  - (e) section 101 of the Telecommunications Act 1984 (c. 12),
  - (f) section 74 of the Airports Act 1986 (c. 31),
  - (g) section 38 of the Consumer Protection Act 1987 (c. 43),
  - (h) section 206 of the Water Industry Act 1991 (c. 56),
  - (i) section 204 of the Water Resources Act 1991 (c. 57),
  - (j) section 145 of the Railways Act 1993 (c. 43),
  - (k) section 55 of the Competition Act 1998 (c. 41),
  - (l) section 105 of the Utilities Act 2000 (c. 27), and
  - (m) section 237 of the Enterprise Act 2002 (c. 40).