

2003 No. 579

HEALTH AND SAFETY

**The Railways (Safety Case) (Amendment)
Regulations 2003**

Made - - - - - 9th March 2003

Laid before Parliament 10th March 2003

Coming into force - - - 1st April 2003

The Secretary of State, in exercise of the powers conferred on him by sections 15(1) and (2) and 82(3)(a) of, and paragraphs 8(1) and 15(1) 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 carrying out by the said Commission of consultations in accordance with section 50(3) of that Act, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Railways (Safety Case) (Amendment) Regulations 2003 and shall come into force on 1st April 2003.

(2) In these Regulations, “the 2000 Regulations” means the Railways (Safety Case) Regulations 2000(b).

Amendments

2. The 2000 Regulations shall be amended in accordance with regulations 3 to 9.
3. In regulation 2(1), the definition of “assessment body” shall be omitted.
4. Regulation 3 shall be omitted.
5. In regulation 4, paragraphs (2) and (3) shall be omitted.
6. In regulation 5—
 - (a) paragraphs (3), (4)(d) and (6)(b) shall be omitted; and
 - (b) in paragraph (9), there shall be omitted the words—
 - (i) “or, where applicable, the assessment body,”; and
 - (ii) “and, where applicable, the assessment body”.
7. In regulation 7—
 - (a) in paragraph (9), there shall be omitted the words—
 - (i) “or, where applicable, the assessment body,”; and
 - (ii) “and, where applicable, the assessment body”; and

(a) 1974 c. 37; sections 11(2), 15(1) and 50 were amended by section 116 of, and paragraphs 4, 6 and 16 respectively of Schedule 15 to, the Employment Protection Act 1975 (c. 71).

(b) S.I. 2000/2688, amended by S.I. 2001/3291.

(b) paragraph (10) shall be omitted.

8. For regulation 9, and subject to regulation 10 of these Regulations, there shall be substituted the following regulations—

“9.—(1) Subject to regulation 9A, an infrastructure controller shall procure a competent body to undertake at intervals of not more than 12 months an audit of the operation of that infrastructure controller where such operation arises from the control of railway infrastructure all or part of which—

- (a) is used for the operation of passenger trains by a train operator who is not also the infrastructure controller; or
- (b) serves a station operated by a station operator who is not also the infrastructure controller.

(2) Subject to regulation 9A, a train operator shall procure a competent body to undertake at intervals of not more than 12 months an audit of the operation of that train operator where any of the trains in question use railway infrastructure referred to in paragraph (1).

(3) Subject to regulation 9A, a station operator shall procure a competent body to undertake at intervals of not more than 12 months an audit of the operation of that station operator where the station in question is served by railway infrastructure referred to in paragraph (1).

(4) A competent body—

- (a) shall not be the same person as; and
- (b) shall be sufficiently independent of,

the railway operator whose operation is the subject of an audit undertaken pursuant to this regulation, to ensure that the audit in question is objective.

(5) A railway operator who procures a competent body to undertake an audit in accordance with this regulation shall—

- (a) obtain from that competent body a report of such audit; and
- (b) as soon as reasonably practicable after its completion, send a copy of that report to—
 - (i) the Executive, and
 - (ii) any other railway operator who may be affected by matters to which the report relates.

(6) A report referred to in paragraph (5) may be prepared in respect of more than one operation undertaken by the same person.

(7) In this regulation—

- (a) “audit” means a systematic assessment of the adequacy of the management system of the railway operator to achieve compliance by him with the relevant statutory provisions in relation to the operation undertaken by him;
- (b) “competent body” means a person who has the skills, knowledge, experience and resources to carry out an audit referred to in this regulation;
- (c) “management system” means the organisation and arrangements established by the railway operator for managing his undertaking;
- (d) “station operator” means a person who operates a station;
- (e) “train operator” means a person who operates a train.

9A.—(1) A railway operator who commenced his railway operation before the relevant date shall procure in accordance with regulation 9(1), (2) or (3), as the case may be, a competent body to undertake the first audit not more than 15 months after either—

- (a) the date of the report following the last infrastructure controller’s audit of the operation of the railway operator in question; or
- (b) if there was no infrastructure controller’s audit of the operation of the railway operator in question, the date on which the railway operation was commenced.

(2) A railway operator who commences his railway operation on or after the relevant date shall procure in accordance with regulation 9(1), (2) or (3), as the case may be, a competent body to undertake the first audit not more than 12 months after the date on which the railway operation was commenced.

- (3) In this regulation—
- (a) “audit” and “competent body” have the same meanings as in regulation 9;
 - (b) “infrastructure controller’s audit” means an audit procured by an infrastructure controller in accordance with regulation 9 in force on the day before the relevant date; and
 - (c) “the relevant date” means 1st April 2003”.

9. In regulation 11—

- (a) in paragraph (1)(b), for the words “an assessment body to enable it to make any recommendation pursuant to regulations 4 or 5 and” there shall be substituted the words “a competent body to enable it”; and
- (b) in paragraph (2)(c), for the words “an assessment body required to make a recommendation pursuant to regulations 4 or 5 or” there shall be substituted the words “a competent body required”.

Transitional provisions

10.—(1) Notwithstanding the substitution of regulation 9 of the 2000 Regulations pursuant to regulation 8 of these Regulations, if, before the relevant date—

- (a) a procured audit has not been completed; or
- (b) a report of a procured audit has not been obtained by the infrastructure controller in question in accordance with regulation 9(1) of the 2000 Regulations in force on the day before the relevant date; or
- (c) copies of a report of a procured audit have not been sent by the infrastructure controller in question in accordance with regulation 9(2) of the 2000 Regulations in force on the day before the relevant date,

the provisions of regulation 9 of the 2000 Regulations in force on the day before the relevant date shall continue to apply with respect to the procured audit, the audit report or the copies of the audit report, as the case may be, as if regulation 9 of the 2000 Regulations had not been substituted in accordance with regulation 8 of these Regulations.

(2) In this regulation—

- (a) “procured audit” means an audit procured by an infrastructure controller in accordance with regulation 9(1) of the 2000 Regulations in force on the day before the relevant date; and
- (b) “the relevant date” means 1st April 2003.

Signed by order of the Secretary of State

9th March 2003

John Spellar
Minister of State
Department for Transport

EXPLANATORY NOTE

(This note is not part of the Regulations)

1. These Regulations amend the Railways (Safety Case) Regulations 2000 (S.I. 2000/2688) (“the 2000 Regulations”). The principal amendments are as follows.

2. Regulations 5 and 6 amend regulations 4 and 5 of the 2000 Regulations so that an infrastructure controller is no longer required to obtain an assessment of a safety case prepared either by that infrastructure controller or by a person who operates a train or station pursuant to the 2000 Regulations.

3. Regulation 8 introduces new regulations 9 and 9A. New regulation 9 requires a person who controls railway infrastructure, a person who operates trains and a person who operates a station to procure a competent body to carry out an audit of the operation of the person in question. New regulation 9A contains provisions about when a railway operator is to procure the first audit under regulation 9. The terms “competent body” and “audit” are defined in new regulation 9(7) and the terms “railway infrastructure”, “railway operator”, “train” and “station” are defined in regulation 2(1) of the 2000 Regulations.

4. Regulation 10 contains transitional provisions.

5. A copy of the regulatory impact assessment prepared in respect of these Regulations can be obtained from the Health and Safety Executive, Economic and Statistical Advice Unit, Rose Court, 2, Southwark Bridge, London SE1 9HS. A copy has been placed in the Library of each House of Parliament.

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