
STATUTORY INSTRUMENTS

2006 No. 557

The Health and Safety (Enforcing Authority for Railways and Other Guided Transport Systems) Regulations 2006

Citation and commencement

1. These Regulations may be cited as the Health and Safety (Enforcing Authority for Railways and Other Guided Transport Systems) Regulations 2006 and shall come into force on 1st April 2006.

Commencement Information

II Reg. 1 in force at 1.4.2006, see [reg. 1](#)

Interpretation

2. In these Regulations—

“the 1974 Act” means the Health and Safety at Work etc. Act 1974;

“bus” means a motor vehicle which is designed or adapted to travel along roads and to carry more than eight passengers but which is not a tramcar;

“cableway installation” means an installation made up of several components that—

- (a) is used or intended to be used for the purpose of providing an operational system for carrying persons in vehicles, on chairs or by towing devices;
- (b) uses cables positioned along the line of travel to provide suspension or traction or both; and
- (c) is one of the following—
 - (i) a cable car (including a gondola and chair lift) where the cabins or chairs are lifted or displaced by one or more carrier cables;
 - (ii) a drag lift, where users with appropriate equipment are dragged by means of a cable; or
 - (iii) a funicular railway or other installation with vehicles mounted on wheels or on other suspension devices where traction is provided by one or more cables;

but does not include rack railways or cable operated tramways;

“carriageway”—

- (a) in England and Wales, has the same meaning as in section 329(1) of the Highways Act 1980(1); and
- (b) in Scotland, has the same meaning as in section 151 of the Roads (Scotland) Act 1984(2);

(1) 1980 c. 66.
(2) 1984 c. 54.

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“construction work” has the same meaning as in regulation 2(1) of the Construction (Design and Management) Regulations 1994⁽³⁾ except that it does not include the installation, commissioning, maintenance, repair or removal of gas services which are normally fixed within or to a structure;

“dock premises” has the same meaning as in regulation 2(1) of the Docks Regulations 1988⁽⁴⁾; “Enforcing Authority Regulations” means the Health and Safety (Enforcing Authority) Regulations 1998⁽⁵⁾;

“the Executive” means the Health and Safety Executive;

“factory” means a factory within the meaning of section 175 of the Factories Act 1961⁽⁶⁾ or a power generating station but does not include—

- (a) light maintenance depots;
- (b) any premises forming part of a heritage railway which are used exclusively or primarily for the reconstruction, renovation, refurbishment or repair of vehicles for use on the heritage railway;
- (c) any premises forming part of a heritage tramway which are used exclusively or primarily for the reconstruction, renovation, refurbishment or repair of vehicles for use on the heritage tramway;
- (d) premises owned or operated by, or on behalf of, the Secretary of State for Defence; or
- (e) power generating stations which produce power exclusively for use in a system of transport specified in regulation 3(2);

“guided bus system” means a system of transport, used wholly or mainly for the carriage of passengers, that employs buses which for some or all of the time when they are in operation—

- (a) travel along roads; and
- (b) are guided (whether while on the road or at other times) by means of—
 - (i) apparatus, a structure or other device which is fixed and not part of the bus; or
 - (ii) a guidance system which is automatic;

“guided transport” means a system of transport, used wholly or mainly for the carriage of passengers, employing vehicles;

“heritage railway” means a railway which is operated to—

- (a) preserve, re-create or simulate railways of the past; or
- (b) demonstrate or operate historical or special types of motive power or rolling stock; and is exclusively or primarily used for tourist, educational or recreational purposes;

“heritage tramway” means a tramway which is operated to—

- (a) preserve, re-create or simulate tramways of the past; or
- (b) demonstrate or operate historical or special types of motive power or rolling stock; and is exclusively or primarily used for tourist, educational or recreational purposes;

“infrastructure” means the following fixed assets used for the operation of any system of transport specified in regulation 3(2)—

- (a) the permanent way;
- (b) electrical and mechanical installations used for signalling;

(3) S.I. 1994/3140, amended by SI1996/1592.

(4) S.I. 1988/1655.

(5) S.I. 1998/494; relevant amending instruments are S.I. 1999/2024 and 2002/2675.

(6) 1961 c. 34; section 175(2) (n) was amended by S.I. 1983/978, regulation 3(1) and Schedule 1.

- (c) electrical installations used for supplying power to vehicles; and
- (d) any other plant, equipment or electrical or mechanical installation;

but, where and to the extent that the system is operated on a road, does not include road lighting, road traffic signals and signage or any apparatus located on, under or above the road unless used for the purposes of that system and maintained by the owner, operator or manager of the system or persons acting on behalf of one or more of them;

“intermodal depot” means a freight handling facility which is operated exclusively or primarily for the purpose of transferring containers from railway vehicles onto a different mode of transport or vice versa;

“lift” means an appliance, other than a cableway installation, serving specific levels and having a car moving—

- (a) along guides which are rigid; or
- (b) along a fixed course even where it does not move along guides which are rigid;

and inclined at an angle of more than 15 degrees to the horizontal and intended wholly or mainly for the transport of persons;

“light maintenance depot” means any premises used exclusively or primarily for, or in connection with, the provision of light maintenance services;

“light maintenance services” means services of any of the following descriptions—

- (a) the refuelling of vehicles;
- (b) the cleaning of vehicles; and
- (c) the carrying out to vehicles of maintenance work of a kind which is normally carried out at regular intervals of twelve months or less to prepare the vehicles for service;

and, for the purposes of paragraph (c), “maintenance work” includes the detection and rectification of any faults;

“mine” has the same meaning as in section 180 of the Mines and Quarries Act 1954(7) but, notwithstanding subsection (5) of that section, does not include any railway serving the mine unless and to the extent that the railway is located within the curtilage of the mine;

“nuclear licensed site” means a site in respect of which a nuclear site licence, within the meaning of section 1(1) of the Nuclear Installations Act 1965(8), has been granted and is in force;

“operation of a railway” includes, in particular,—

- (a) use, parking, sheltering, maintenance and repair of a vehicle including its inspection, cleaning, fuelling and preparation for use;
- (b) subject to paragraph (k), loading or unloading of goods on or from vehicles at operational premises;
- (c) ensuring the fitness of trains to enter into service, in particular, in the case of freight trains, by checking the condition and distribution of goods carried;
- (d) use of the infrastructure;
- (e) use of those fixed assets of the railway (other than infrastructure) which are both used in its operation and comprise, or are located within, operational premises;

(7) 1954 c. 70; section 180 was amended by S.I. 1974/2031, 1993/1897 and 1999/2024.

(8) 1965 c. 57; section 1 was amended by S.I. 1974/2056 and 1990/1918.

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- (f) use of signalling control centres, or centres used for the operation of communications systems or systems used for monitoring the operation of the railway, whether or not within operational premises, together with any railway offices within the same premises;
- (g) training of railway staff within operational premises or other premises included within paragraph (f);
- (h) carrying out construction work to the extent stated in regulation 5; and
- (i) reconstruction, renovation, refurbishment and repair of vehicles for use on a heritage railway carried out at premises used exclusively or primarily for these purposes and which form part of the heritage railway;

but does not include—

- (j) subject to paragraph (f), office activities relating to the railway which are not carried out within operational premises; or
 - (k) loading or unloading of goods on or from vehicles at dock premises, intermodal depots or premises owned or operated by, or on behalf of, the Secretary of State for Defence;
- “operation of a tramway” and “operation of any other system of guided transport” includes, in particular,—
- (a) use, parking, sheltering, maintenance and repair of vehicles including their inspection, cleaning, fuelling and preparation for use;
 - (b) ensuring the fitness of vehicles to enter into service;
 - (c) use of the infrastructure;
 - (d) use of those fixed assets of the system of transport (other than infrastructure) which are both used in its operation and comprise, or are located within, operational premises;
 - (e) use of signalling control centres, or centres used for the operation of communications systems or systems used for monitoring the operation of the system of transport, whether or not within operational premises, together with any offices of the system of transport within the same premises;
 - (f) training of staff within operational premises or other premises included within paragraph (e);
 - (g) carrying out construction work to the extent stated in regulation 5; and
 - (h) in the case of tramways, the reconstruction, renovation, refurbishment and repair of vehicles for use on a heritage tramway carried out at premises used exclusively or primarily for these purposes and which form part of the heritage tramway;

but, subject to paragraph (e), does not include office activities relating to the system of transport which are not carried out within operational premises;

“operational premises” means, in relation to any system of transport specified in regulation 3(2),—

- (a) the permanent way;
- (b) stations;
- (c) light maintenance depots; and
- (d) any land adjacent to or adjoining the permanent way which is used, occupied or held for the purposes of the system;

but does not include—

- (e) parts separately occupied for the carrying on of any trade, business or undertaking other than for the purposes of the system, including shops, offices or premises used for the provision of catering services or temporary residential accommodation; or

- (f) where and to the extent that the system is operated on a road, all other parts of the road including bridges, tunnels, culverts, retaining walls or other structures used or to be used for the support of, or otherwise in connection with, the road;

“the permanent way”, in relation to any system of transport specified in regulation 3(2), means any land or other property comprising the permanent way of the system, taken together with the ballast, sleepers and metals or other means of guidance laid on, under or over it, whether or not the land or other property is also used for other purposes and includes—

- (a) any level crossings, bridges, viaducts, tunnels, culverts, retaining walls or other structures used or to be used for the support of, or otherwise in connection with, the permanent way; and
- (b) any walls, fences or other structures bounding the system or bounding any adjacent or adjoining property;

but does not include—

- (c) any bridge, structure or other property which spans the permanent way and is maintained by persons other than the owner, operator or manager of the system or persons acting on behalf of one or more of them; or
- (d) where and to the extent that the system is operated on a road, all other parts of the road including bridges, tunnels, culverts, retaining walls or other structures used or to be used for the support of, or otherwise in connection with, the road;

“power generating station” means any premises used exclusively or primarily for the purposes of generating electrical energy;

“quarry” has the same meaning as in regulation 3 of the Quarries Regulations 1999(9);

“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 either is of a gauge of at least 350 millimetres or crosses a carriageway (whether or not on the same level);

but does not include a tramway;

“road”—

- (a) in England and Wales, means any length of highway or of any other road to which the public has access, and includes bridges over which a road passes; and
- (b) in Scotland, has the same meaning as in the Roads (Scotland) Act 1984;

“station” means any premises used as, or for the purposes of, or otherwise in connection with, a passenger station or terminal of a system of transport specified in regulation 3(2), (including station offices, ticket offices, left luggage and lost property facilities, approaches, forecourt, car parks and cycle stores), whether or not the premises are also used for other purposes;

“tramway” means a system of transport used wholly or mainly for the carriage of passengers—

- (a) which employs parallel rails which—
- (i) provide support and guidance for vehicles carried on flanged wheels;
- (ii) are laid wholly or partly along a road or in any other place to which the public has access (including a place to which the public has access only on making a payment); and
- (b) on any part of which the permitted maximum speed is such as to enable the driver to stop a vehicle in the distance he can see to be clear ahead;

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“vehicle” means any vehicle which for some or all of the time when it is in operation is guided by means of—

- (a) rails, beams, slots, guides or other apparatus, structures or devices which are fixed and not part of the vehicle; or
 - (b) a guidance system which is automatic;
- and includes a mobile traction unit;

“warehouse premises” means any premises used exclusively or primarily for the storage of goods for retail or wholesale distribution.

Commencement Information

I2 Reg. 2 in force at 1.4.2006, see [reg. 1](#)

Enforcing authority

3.—(1) Subject to paragraphs (3) to (5), the Office of Rail Regulation shall be responsible for the enforcement of the relevant statutory provisions (**10**) to the extent that they relate to any activity specified in paragraph (2) (whether or not that activity is the main activity carried out in premises).

(2) Subject to regulations 4 and 5, the activities referred to in paragraph (1) are the following—

- (a) the operation of a railway;
- (b) the operation of a tramway; and
- (c) the operation of any other system of guided transport.

(3) The Office of Rail Regulation shall be responsible for the enforcement of subsections (1), (2), (4) and (5) of section 6 of the 1974 Act (general duties of manufacturers etc as regards articles and substances for use at work) (**11**) but only in so far as their requirements relate to any—

- (a) articles for use at work which are designed, manufactured, imported or supplied, or
- (b) substances which are manufactured, imported or supplied,

to be used exclusively or primarily in the construction or operation of any system of transport specified in paragraph (2).

(4) The Office of Rail Regulation shall be responsible for the enforcement of subsection (3) of section 6 of the 1974 Act (**12**) but only in so far as its requirements relate to the erection or installation of any articles for use at work which are to be used in the operation of any system of transport specified in paragraph (2).

(5) This regulation shall have effect subject to regulation 58(5) of the Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2004 (defence and enforcement) (**13**).

(6) This regulation shall have effect notwithstanding anything to the contrary in the following provisions of the Enforcing Authority Regulations—

- (a) regulation 3;

(10) “The relevant statutory provisions” is defined in section 53 of the 1974 Act. The scope of “the relevant statutory provisions” was extended by section 117 of the Railways Act 1993 (c. 43).

(11) Subsections (1) and (4) were substituted for the original subsections, and subsections (2) and (5) were amended, by the Consumer Protection Act 1987 (c. 43), section 36 and Schedule 3.

(12) Subsection (3) was amended by the Consumer Protection Act 1987 (c. 43), section 36 and Schedule 3.

(13) [S.I. 2004/568](#). Regulation 58(5) was inserted by [S.I. 2005/1732](#), regulation 2 and Schedule 1, paragraph 30. It makes the Secretary of State the enforcing authority for regulation 10A of [SI 2004/568](#) (security provisions concerning the carriage of dangerous goods by road and rail).

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- (b) paragraphs (1) and (2) of regulation 4 but only in so far as they relate to the bodies specified in paragraph (3) (a), (b) and (h) of that regulation;
- (c) regulation 4(4)(a); and
- (d) regulation 4(4)(b) but only in so far as it relates to the activity specified in paragraph 4(a) of Schedule 2;

or in any transfer or assignment pursuant to regulations 5 or 6 of those Regulations.

Commencement Information

I3 Reg. 3 in force at 1.4.2006, see [reg. 1](#)

Exceptions

- 4.—**(1) The activities specified in regulation 3(2) do not include the operation of—
- (a) a cableway installation; or
 - (b) any fairground equipment⁽¹⁴⁾.
- (2) The systems of guided transport specified in regulation 3(2) (c) do not include—
- (a) a guided bus system;
 - (b) any other system of guided transport that employs vehicles which for some or all of the time when they are in operation travel along roads; or
 - (c) a lift, unless it is used in the operation of any system of transport specified in regulation 3(2).
- (3) The operation of a system of transport specified in regulation 3(2) does not include such an operation carried out within—
- (a) dock premises which are within premises referred to in any of sub-paragraphs (c) to (h);
 - (b) any other dock premises unless—
 - (i) the system of transport operated is part of a system which is operated outside the dock premises; and
 - (ii) the operation is for the purpose of or related to the carriage of passengers or goods to or from the dock premises by that system;
 - (c) an establishment to which the Control of Major Accident Hazards Regulations 1999⁽¹⁵⁾ applies;
 - (d) a factory;
 - (e) a mine;
 - (f) a nuclear licensed site;
 - (g) a quarry; or
 - (h) warehouse premises.

⁽¹⁴⁾ Fairground equipment is defined in section 53 of the 1974 Act. Its definition was inserted into section 53 by the Consumer Protection Act 1987 (c. 43), section 36 and Schedule 3.

⁽¹⁵⁾ S.I. 1999/743. Regulation 3 specifies those establishments to which the regulations apply. Regulation 3 was amended by S.I. 2005/1088.

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(4) Notwithstanding paragraph (3), the Office of Rail Regulation shall be responsible for the enforcement of orders made under section 1 of the Level Crossings Act 1983(16) whether or not a level crossing to which such an order relates is within any premises referred to in paragraph (3).

(5) The activities specified in regulation 3(2) do not include the undertaking of any work which is prohibited by the Asbestos (Licensing) Regulations 1983(17) from being carried out by any employer or self employed person without a licence granted under regulation 4 of those Regulations relating to that work.

Commencement Information

I4 Reg. 4 in force at 1.4.2006, see [reg. 1](#)

Construction work

5.—(1) Without prejudice to regulation 4(5), in paragraph (2) of regulation 3 “operation” includes the carrying out of construction work if—

- (a) it relates to the maintenance, repair, renewal or improvement of infrastructure; or
- (b) subject to paragraph (2), it is carried out within operational premises and relates to the maintenance, repair, renewal or improvement of any fixed assets other than infrastructure.

(2) Paragraph (1) (b) does not include construction work—

- (a) where—
 - (i) regulation 7(1) of the Construction (Design and Management) Regulations 1994 (which requires notice to be given of projects which include or are intended to include construction work) applies to the project which includes that work; and
 - (ii) it is carried out in a physically segregated area of the operational premises, the activities normally carried out in that area, if any, have been suspended for the purpose of enabling that work to be carried out, the contractor has authority to exclude from that area persons who are not attending in connection with the carrying out of that work and the work is not the maintenance of insulation on pipes, boilers or other parts of heating or water systems or its removal from them; or
- (b) where carried out in relation to any bridge, structure or other property which spans or is adjacent to operational premises by persons other than the owner, operator or manager of the system of transport or persons acting on behalf of one or more of them .

(3) The reference to “improvement” in paragraph (1) (a) does not include construction work for the extension of an existing system of transport.

Commencement Information

I5 Reg. 5 in force at 1.4.2006, see [reg. 1](#)

Amendments

6. The enactments referred to in the Schedule are amended in accordance with the provisions of the Schedule.

(16) 1983 c. 16. Section 1 is amended by the Road Traffic Regulation Act 1984 (c. 27), section 146 and Schedule 13, by the Transport and Works Act 1992 (c. 42), section 51 and by S.I.1997/487. It is also amended by the Railways Act 2005 (c. 14), section 59(1) and Schedule 12 paragraph 6 from 1st April 2006. There are other amendments not relevant to these Regulations.

(17) S.I. 1983/1649, amended by S.I. 1986/392, 1987/2115 and 1998/3233.

Commencement Information

I6 Reg. 6 in force at 1.4.2006, see [reg. 1](#)

Transitional provisions

7.—(1) In this regulation—

- (a) “functions” means the functions transferred to the Office of Rail Regulation by these Regulations; and
- (b) “transfer” means the transfer referred to in sub-paragraph (a).

(2) Anything done by, or in relation to, the Executive in relation to the functions which has effect at the date of the coming into force of these Regulations shall, so far as necessary or appropriate for the purposes of, or in consequence of, the transfer, have effect as if done by, or in relation to, the Office of Rail Regulation.

(3) There may be continued by, or in relation to, the Office of Rail Regulation anything (including legal proceedings) relating to the functions which is in the process of being done by, or in relation to, the Executive immediately before the coming into force of these Regulations.

(4) Any reference to the Executive in any document relating to the functions shall be taken, so far as necessary or appropriate for the purposes of, or in consequence of, the transfer, as a reference to the Office of Rail Regulation.

(5) The transfer does not affect the validity of anything done by, or in relation to, the Executive before the coming into force of these Regulations.

(6) In this regulation a reference to the Executive, or to the Office of Rail Regulation, includes respectively a reference to an officer of that body, including any inspector appointed by it, so far as necessary or appropriate for the purposes of, or in consequence of, the transfer.

(7) If and in so far as immediately before the coming into force of these Regulations any of the functions are held by a local authority pursuant to any transfer or assignment made under regulations 5 or 6 of the Enforcing Authority Regulations, paragraphs (2) to (6) of this regulation shall have effect as if any reference to the “Executive” were a reference to a local authority.

Commencement Information

I7 Reg. 7 in force at 1.4.2006, see [reg. 1](#)

Signed by authority of the Secretary of State for Transport

2nd March 2006

Derek Twigg
Parliamentary Under Secretary of State

Changes to legislation:

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Changes and effects yet to be applied to :

- Sch. para. 4 revoked by [S.I. 2007/320 Sch. 4](#)
- Sch. para. 1314 revoked by [S.I. 2014/469 Sch. 3 para. 210](#)
- Regulations applied by [S.I. 2013/1506 reg. 9\(1\)](#)
- Regulations applied by [S.I. 2013/1506 reg. 18\(1\)](#)
- reg. 2 word substituted by [S.I. 2007/320 Sch. 5](#)
- reg. 2 words deleted by [S.I. 2008/2323 reg. 3\(c\)](#)
- reg. 2 words inserted by [S.I. 2008/2323 reg. 3\(a\)](#)
- reg. 2 words inserted by [S.I. 2008/2323 reg. 3\(b\)](#)
- reg. 2 words inserted by [S.I. 2008/2323 reg. 3\(d\)](#)
- reg. 2 words inserted by [S.I. 2013/950 reg. 2\(1\)\(a\)](#)
- reg. 2 words inserted by [S.I. 2013/950 reg. 2\(1\)\(b\)](#)
- reg. 2 words inserted by [S.I. 2014/469 Sch. 3 para. 126\(2\)\(a\)](#)
- reg. 2 words omitted by [S.I. 2014/469 Sch. 3 para. 126\(2\)\(b\)](#)
- reg. 2 words substituted by [S.I. 2008/2323 reg. 3\(e\)](#)
- reg. 2 words substituted by [S.I. 2014/3248 Sch. 5 para. 14](#)
- reg. 2 words substituted by [S.I. 2016/721 Sch. 5 para. 8\(a\)\(i\)](#)
- reg. 2 words substituted by [S.I. 2016/721 Sch. 5 para. 8\(a\)\(ii\)](#)
- reg. 3 words substituted by [S.I. 2015/1682 Sch. para. 10\(o\)\(i\)](#)
- reg. 3(5) words substituted by [S.I. 2007/1573 Sch. 8](#)
- reg. 3(5) words substituted by [S.I. 2017/1075 Sch. 9 para. 7\(2\)\(b\)\(i\)](#)
- reg. 3(5) words substituted by [S.I. 2017/1075 Sch. 9 para. 7\(2\)\(b\)\(ii\)](#)
- reg. 3(6) words inserted by [S.I. 2014/469 Sch. 3 para. 126\(3\)](#)
- reg. 4 word replaced by [S.I. 2016/721 Sch. 5 para. 8\(b\)](#)
- reg. 4(3)(a)(b) substituted by [S.I. 2008/2323 reg. 4\(b\)](#)
- reg. 4(3)(c) word substituted by [S.I. 2015/483 Sch. 6 para. 4](#)
- reg. 4(3)(f) substituted by [S.I. 2014/469 Sch. 3 para. 126\(4\)](#)
- reg. 4(4) words substituted by [S.I. 2015/1682 Sch. para. 10\(o\)\(ii\)](#)
- reg. 4(5) words substituted by [S.I. 2006/2739 reg. 36\(2\)Sch. 5](#)
- reg. 4(5) words substituted by [S.I. 2012/632 Sch. 3](#)
- reg. 5 substituted by [S.I. 2008/2323 reg. 5](#)
- reg. 5(2)(a)(i) words substituted by [S.I. 2007/320 Sch. 5](#)
- reg. 7 words substituted by [S.I. 2015/1682 Sch. para. 10\(o\)\(iv\)](#)

Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- reg. 2(1) word substituted by [S.I. 2015/51 Sch. 5](#)
- reg. 3(4A) inserted by [S.I. 2017/1075 Sch. 9 para. 7\(2\)\(a\)](#)
- reg. 4(1)(c)(d) and word added by [S.I. 2008/2323 reg. 4\(a\)](#)
- reg. 4(4A) inserted by [S.I. 2013/950 reg. 2\(2\)](#)
- reg. 5A inserted by [S.I. 2014/469 Sch. 3 para. 126\(5\)](#)
- reg. 5A heading words substituted by [S.I. 2015/1682 Sch. para. 10\(o\)](#)
- reg. 5A words substituted by [S.I. 2015/1682 Sch. para. 10\(o\)\(iii\)](#)
- reg. 8 inserted by [S.I. 2013/950 reg. 2\(3\)](#)