
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make the Office of Rail Regulation (“ORR”) responsible for the enforcement of health and safety law in relation to the operation of railways, tramways and certain other systems of guided transport in place of the Health and Safety Executive (“HSE”), (i.e. the enforcement of Part 1 of the Health and Safety at Work etc. Act 1974 (“the 1974 Act”), regulations made under section 15 and certain “existing statutory provisions” as defined in section 53 of the 1974 Act, as extended in scope by section 117 of the Railways Act 1993). Thus the ORR will be the “enforcing authority” for these purposes within the meaning of section 18(7) of the 1974 Act, (*regulation 3*).

The ORR is also made the enforcing authority for the purposes of the provisions in section 6 of the 1974 Act, (general duties of manufacturers etc as regards articles and substances for use at work), in so far as they relate to articles designed, manufactured, imported or supplied, (or substances manufactured, imported or supplied), to be used exclusively or primarily in such systems of transport, (or, in the case of section 6(3)), in so far as they relate to the erection or installation of articles for use at work in the operation of such systems of transport), (*regulation 3(3) and (4)*).

Its remit as enforcing authority is made subject to certain exceptions, as listed in regulation 4. But regulation 4(4) provides that, notwithstanding these exceptions, the ORR will be the enforcing authority for orders made under section 1 of the Level Crossings Act 1983.

Regulation 5 specifies the extent to which the enforcing authority remit of the ORR will include the enforcement of health and safety law in relation to construction work.

Regulation 7 sets out transitional provisions in relation to the handover of these functions from the HSE to the ORR.

The Schedule amends various enactments, to make consequential provision and to substitute the ORR for the HSE, to such extent as appropriate, for the exercise of certain functions and for related purposes connected with health and safety on relevant systems of transport.

In addition, paragraph 1 of the Schedule enables the Secretary of State, in any regulations he may make under section 41 of the Transport and Works Act 1992, (“the 1992 Act”), to designate such authorities as he may specify to approve, in relation to certain transport systems, new works, plant or equipment, (or alterations to them). Also it provides that the power under section 45 of the 1992 Act to give directions limiting speeds and loads, in relation to certain transport systems, is to be exercised by the enforcing authority for the mode of transport to which the direction relates.

Paragraph 2 of the Schedule amends the existing regulations made under section 41 of the 1992 Act, (the Railways and Other Transport Systems (Approval of Works, Plant and Equipment) Regulations 1994), to remove trolley vehicle systems and certain road based systems of guided transport from their scope, as well as to substitute the ORR for the HSE for certain purposes.

Paragraph 6 of the Schedule, in addition to making consequential amendments, amends the Health and Safety (Enforcing Authority) Regulations 1998 to make the HSE the enforcing authority for the operation of guided bus systems, any other road based systems of guided transport, (other than tramways), and trolley vehicle systems, in place of being the enforcing authority for the operation of railways, tramways and certain other forms of guided transport.

A regulatory impact assessment of the effect that this instrument will have on the costs of business has been prepared and copies can be obtained from the Department for Transport, Great Minister House, 76 Marsham Street, London SW1P 4DR. A copy has been placed in the Library of each House of Parliament.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Health and Safety (Enforcing Authority for Railways and Other Guided Transport Systems) Regulations 2006. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

A copy of the regulatory impact assessment may also be accessed on the HMSO website www.opsi.gov.uk.

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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\(3\)](#)