

## SCHEDULE

Regulation 6

### AMENDMENT OF ENACTMENTS

#### **Amendments to the Transport and Works Act 1992**

- 1.—(1) The Transport and Works Act 1992(1) is amended as follows.
- (2) In section 41 ( approval of works, plant and equipment)—
  - (a) in subsection (1), for “his approval” substitute “the approval of a specified authority”;
  - (b) in paragraph (c) of subsection (2), for “Secretary of State”(2) substitute “specified authority”;
  - (c) in subsection (3)—
    - (i) for “Secretary of State” substitute “specified authority”; and
    - (ii) for “he” substitute “it”; and
  - (d) in subsection (7), after the definition of “prescribed systems of guided transport” insert—

““specified authority” means such authority as may be specified in regulations under this section .”.
- (3) In section 45 ( directions limiting speeds and loads)—
  - (a) in subsection (1), for “Secretary of State”(3) substitute “relevant enforcing authority”;
  - (b) in subsection (4)—
    - (i) for “Secretary of State” substitute “relevant enforcing authority”; and
    - (ii) for “he” substitute “that authority”; and
  - (c) after subsection (6) insert—

“(7) In this section “relevant enforcing authority” means the enforcing authority responsible for the enforcement of the relevant statutory provisions in relation to the mode of transport to which the direction applies.
  - (8) In subsection (7)—

“enforcing authority” has the same meaning as in section 18(7) (a) of the Health and Safety at Work etc. Act 1974;

“relevant statutory provisions” has the same meaning as in that Act.”.

#### **Amendments to the Railways and Other Transport Systems (Approval of Works, Plant and Equipment) Regulations 1994**

- 2.—(1) The Railways and Other Transport Systems (Approval of Works, Plant and Equipment) Regulations 1994(4) are amended as follows.
- (2) For “Secretary of State”, wherever occurring, substitute “relevant authority”.
- (3) In regulation 2(a) ( interpretation)—

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(1) 1992 c. 42.

(2) Regulation 10(1) of the Railway Safety (Miscellaneous Provisions) Regulations 1997, S.I. 1997/553, provided that any reference in section 41, (other than sub-section (1)), and 45 of the Transport and Works Act 1992 to the “Secretary of State” was to have effect as if it were a reference to the “Health and Safety Executive”. Paragraph 5 of this Schedule revokes regulation 10(1).

(3) See footnote (b).

(4) S.I. 1994/157, to which there are amendments not relevant to these Regulations. Regulation 10(1) of the Railway Safety (Miscellaneous Provisions) Regulations 1997, S.I. 1997/553, provided that any reference in the 1994 regulations to the “Secretary of State” was to have effect as if it were a reference to the “Health and Safety Executive”. Paragraph 5 of this Schedule revokes regulation 10(1).

*Status: This is the original version (as it was originally made).*

- (a) after the definition of “prescribed system of guided transport” insert—
  - ““relevant authority” means—
  - (a) the Office of Rail Regulation where it is made responsible for the enforcement of the relevant statutory provisions in relation to the operation of a relevant transport system by regulation 3(1) of the Health and Safety (Enforcing Authority for Railways and Other Guided Transport Systems) Regulations 2006; and
  - (b) the Health and Safety Executive in any other case;”;
- (b) after the definition of “relevant operational limitation” insert—
  - ““the relevant statutory provisions” has the same meaning as in section 53 of the Health and Safety at Work etc. Act 1974;”;
- (c) in the definition of “relevant transport system”, omit “, a trolley vehicle system”.
- (4) In regulation 4(2)(b) (requirement for approval), omit “or because it is a vehicle operating on a trolley vehicle system,”.
- (5) In regulation 5 (procedure for obtaining approval)—
  - (a) in paragraph (3) for each reference to “he” or “him” substitute “it”; and
  - (b) in paragraph (4) for “he” substitute “it” and for “himself” substitute “itself”.
- (6) In regulation 6(4) (type approval of plant and equipment), for “he” substitute “it”.
- (7) In sub-paragraphs (1)(b) and (2)(b) of regulation 10 (dispensations), for each reference to “he” substitute “it”.
- (8) In sub-paragraphs (1)(b) and (2)(b) of regulation 11 (compliance with provisions not otherwise applicable), for each reference to “he” substitute “it”.
- (9) In Schedule 1 (prescribed modes of guided transport)—
  - (a) in Part I (The Modes), omit modes numbered 3 to 5; and
  - (b) in paragraph 1 of Part II (interpretation), omit the definitions of “road-based with cable guidance”, “road-based with rail guidance” and “road-based with side guidance”.

#### **Amendments to the Railways (Safety Critical Work) Regulations 1994**

**3.** In regulation 2(1) of the Railways (Safety Critical Work) Regulations 1994(5) (interpretation), for the definition of “the Executive” substitute—

- ““the Executive” means—
- (a) the Office of Rail Regulation where it is made the enforcing authority in relation to the operation of a transport system by regulation 3(1) of the Health and Safety (Enforcing Authority for Railways and Other Guided Transport Systems) Regulations 2006; and
- (b) the Health and Safety Executive in any other case;”.

#### **Amendments to the Construction (Design and Management) Regulations 1994**

**4.—(1)** The Construction (Design and Management) Regulations 1994(6) are amended as follows.

- (2) After regulation 4(6) (clients and agents of clients) insert—

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(5) S.I. 1994/299, amended by S.I. 1996/1592, 1999/2024, and 2000/2688.

(6) S.I. 1994/3140, amended by S.I. 1996/1592, 1998/494, 1999/3242, and 2000/2380.

“(7) In so far as the project includes construction work of a description for which the Office of Rail Regulation is made the enforcing authority by regulation 3(1) of the Health and Safety (Enforcing Authority for Railways and Other Guided Transport Systems) Regulations 2006, paragraphs (3) to (5) of this regulation shall have effect as if any reference to the Executive were a reference to the Office of Rail Regulation.”.

(3) After regulation 7(6) (notification of a project) insert—

“(7) In so far as the project includes construction work of a description for which the Office of Rail Regulation is made the enforcing authority by regulation 3(1) of the Health and Safety (Enforcing Authority for Railways and Other Guided Transport Systems) Regulations 2006, paragraphs (1) and (2) of this regulation shall have effect as if any reference to the Executive were a reference to the Office of Rail Regulation.”.

(4) For regulation 22 (enforcement) substitute—

#### **“Enforcement**

**22.—**(1) Notwithstanding regulation 3 of the Health and Safety (Enforcing Authority) Regulations 1998, and subject to paragraph (2), the enforcing authority for these Regulations shall be the Executive.

(2) The Executive shall not be the enforcing authority for these Regulations to the extent that the Office of Rail Regulation is made the enforcing authority for them by regulation 3(1) of the Health and Safety (Enforcing Authority for Railways and Other Guided Transport Systems) Regulations 2006.”.

#### **Amendments to the Railway Safety (Miscellaneous Provisions) Regulations 1997**

**5.—**(1) The Railway Safety (Miscellaneous Provisions) Regulations 1997(7) are amended as follows.

(2) In regulation 2(1) ( interpretation), after the definition of “railway” insert—

““relevant authority” means—

- (a) the Office of Rail Regulation where it is made the enforcing authority in relation to the operation of a transport system by regulation 3(1) of the Health and Safety (Enforcing Authority for Railways and Other Guided Transport Systems) Regulations 2006; and
- (b) the Health and Safety Executive in any other case;”.

(3) In regulation 8 (exemptions), for “Health and Safety Executive”, wherever occurring, substitute “relevant authority”.

(4) Omit regulation 10(1) (transfer of functions from the Secretary of State to the Health and Safety Executive).

#### **Amendments to the Health and Safety (Enforcing Authority) Regulations 1998**

**6.—**(1) The Health and Safety (Enforcing Authority) Regulations 1998(8) are amended as follows.

(2) In regulation 2(1) (interpretation)—

(a) after the definition of “agricultural activities” insert—

““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;”;

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(7) S.I. 1997/553 amended by S.I. 1998/494 and 1999/2024.

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

*Status: This is the original version (as it was originally made).*

- (b) after the definition of “gas system” insert—
- ““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 which for some or all of the time when they are in operation are 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 for this purpose “vehicle” includes a mobile traction unit;”;
- (c) in the definition of “mine” after “1954” insert—
- “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;”;
- (d) omit the definition of “prescribed system of guided transport”;
- (e) for the definition of “railway” substitute—
- ““railway” means any system of transport the operation of which is specified in regulation 3(2) of the Health and Safety (Enforcing Authority for Railways and Other Guided Transport Systems) Regulations 2006;”;
- (f) after the definition of “railway” insert—
- ““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;”;
- (g) after the definition of “substances dangerous for supply” insert—
- ““trolley vehicle system” means a system of transport by vehicles constructed or adapted for use on roads without rails under electric power transmitted to them by overhead wires (whether or not there is in addition a source of power on board the vehicles);”.
- (3) In regulation 3(6) (local authorities to be enforcing authorities in certain cases), for “Executive” substitute “Office of Rail Regulation”.
- (4) In Schedule 2 (activities in respect of which the Health and Safety Executive is the enforcing authority)—
- (a) for paragraph 12 substitute—

“12. The operation of—

    - (a) a guided bus system; or

- (b) any other system of guided transport, other than a railway, that employs vehicles which for some or all of the time when they are in operation travel along roads.”; and
- (b) after paragraph 12 insert—
  - “13. The operation of a trolley vehicle system.”.

### **Amendments to the Working Time Regulations 1998**

7. Regulation 28 of the Working Time Regulations 1998(9) (enforcement) is amended as follows—

- (a) in paragraph (1) in the definition of “enforcement authority”, for “or VOSA” substitute “,VOSA or the Office of Rail Regulation”;
- (b) in paragraph (2)—
  - (i) at the end of sub-paragraph (b) omit “or”; and
  - (ii) after sub-paragraph (c) insert—
    - “(d) the Office of Rail Regulation is made responsible for their enforcement by paragraph (3A).”; and
- (c) after paragraph (3) insert—
  - “(3A) Where the relevant requirements apply in relation to workers employed in the carrying out of any of the activities specified in regulation 3(2) of the Health and Safety (Enforcing Authority for Railways and Other Guided Transport Systems) Regulations 2006 it shall be the duty of the Office of Rail Regulation to enforce those requirements.”.

### **Amendments to the Railway Safety Regulations 1999**

8.—(1) The Railway Safety Regulations 1999(10) are amended as follows.

- (2) In regulation 2(1) (interpretation)—
  - (a) in paragraph (b) of the definition of “excessive speed”, for “Executive” substitute “relevant authority”; and
  - (b) after the definition of “relevant approach” insert—
    - ““relevant authority” means—
      - (a) the Office of Rail Regulation where it is made the enforcing authority in relation to the operation of a railway by regulation 3(1) of the Health and Safety (Enforcing Authority for Railways and Other Guided Transport Systems) Regulations 2006; and
      - (b) the Health and Safety Executive in any other case;”.
- (3) In regulation 6 (exemption certificates), for “Executive”, wherever occurring, substitute “relevant authority”.

### **Amendments to the Railways (Safety Case) Regulations 2000**

9. In regulation 2(1) of the Railways (Safety Case) Regulations 2000(11) (interpretation), for the definition of “the Executive” substitute—

““the Executive” means—

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(9) [S.I. 1998/1833](#). Regulation 28 was substituted by [S.I. 2003/1684](#), regulations 2 and 10.  
(10) [S.I. 1999/2244](#), to which there are amendments not relevant to these Regulations.  
(11) [S.I. 2000/2688](#), amended by [S.I. 2001/2626](#), [2001/3291](#), [2002/2099](#), and [2003/579](#).

*Status: This is the original version (as it was originally made).*

- (a) except in regulation 16, the Office of Rail Regulation where it is made the enforcing authority in relation to the operation of a railway by regulation 3(1) of the Health and Safety (Enforcing Authority for Railways and Other Guided Transport Systems) Regulations 2006; and
- (b) the Health and Safety Executive in any other case and in regulation 16;”.

**Amendment to the Radiation (Emergency Preparedness and Public Information) Regulations 2001**

**10.** After regulation 18 of the Radiation (Emergency Preparedness and Public Information) Regulations 2001<sup>(12)</sup> (modifications relating to the Ministry of Defence etc) insert—

**“Modifications relating to the Office of Rail Regulation**

**18A.**—(1) Subject to paragraph (2), in so far as these Regulations apply to, or in connection with, any activities in relation to which the Office of Rail Regulation is made the enforcing authority by regulation 3(1) of the Health and Safety (Enforcing Authority for Railways and Other Guided Transport Systems) Regulations 2006, they shall have effect as if any reference to the Executive were a reference to the Office of Rail Regulation.

(2) Paragraph (1) shall not apply to—

- (a) the definition of “the Executive” in regulation 2(1) (interpretation);
- (b) regulation 20 (transitional provisions); or
- (c) note 6 at the end of Part 1 of Schedule 4 (specified quantities for the transport of radionuclides).”.

**Amendment to the Control of Substances Hazardous to Health Regulations 2002**

**11.** After regulation 16 of the Control of Substances Hazardous to Health Regulations 2002<sup>(13)</sup> (exemptions relating to the Ministry of Defence etc) insert—

**“Modifications relating to the Office of Rail Regulation**

**16A.**—(1) In so far as these Regulations apply to, or in connection with, any activities in relation to which the Office of Rail Regulation is made the enforcing authority by regulation 3(1) of the Health and Safety (Enforcing Authority for Railways and Other Guided Transport Systems) Regulations 2006, they shall have effect as if any reference to the Executive in the provisions specified in paragraph (2) were a reference to the Office of Rail Regulation.

(2) The provisions referred to in paragraph (1) are as follows—

- (a) regulation 10 (7) (b) (monitoring exposure at the workplace);
- (b) regulation 11 (4) (b) (health surveillance); and
- (c) regulation 18 (revocation and savings).”.

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<sup>(12)</sup> S.I. 2001/2975, amended by S.I. 2002/2099, 2002/2469, and 2004/568.

<sup>(13)</sup> S.I. 2002/2677, to which there are amendments not relevant to these Regulations.

### **Amendments to the Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2004**

**12.**—(1) The Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2004(**14**) are amended as follows.

(2) In regulation 58(4) (defence and enforcement), for “paragraph (5)” substitute “paragraphs (5) and (6)”.

(3) After paragraph 58(5)(**15**) insert—

“(6) The Executive shall not be the enforcing authority for these Regulations to the extent that the Office of Rail Regulation is made the enforcing authority for them by regulation 3(1) of the Health and Safety (Enforcing Authority for Railways and Other Guided Transport Systems) Regulations 2006.”.

### **Amendment to the Control of Vibration at Work Regulations 2005**

**13.** In regulation 2(1) of the Control of Vibration at Work Regulations 2005(**16**) (interpretation), for the definition of “enforcing authority” substitute—

““enforcing authority” means the Executive, local authority or Office of Rail Regulation, determined in accordance with the provisions of the Health and Safety (Enforcing Authority) Regulations 1998 and the Health and Safety (Enforcing Authority for Railways and Other Guided Transport Systems) Regulations 2006;”.

### **Amendment to the Control of Noise at Work Regulations 2005**

**14.** In regulation 2(1) of the Control of Noise at Work Regulations 2005(**17**) (interpretation), for the definition of “enforcing authority” substitute—

““enforcing authority” means the Executive, local authority or Office of Rail Regulation, determined in accordance with the provisions of the Health and Safety (Enforcing Authority) Regulations 1998 and the Health and Safety (Enforcing Authority for Railways and Other Guided Transport Systems) Regulations 2006;”.

### **Amendment to the Railways (Accident Investigation and Reporting) Regulations 2005**

**15.** In regulation 2(1) of the Railways (Accident Investigation and Reporting) Regulations 2005(**18**) (interpretation), in the definition of “safety authority”, for “Health and Safety Executive” substitute “Office of Rail Regulation”.

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(14) [S.I. 2004/568](#); relevant amending instrument is [S.I. 2005/1732](#).

(15) Regulation 58(5) was inserted by [S.I. 2005/1732](#), regulation 2 and Schedule 1, paragraph 30.

(16) [S.I. 2005/1093](#).

(17) [S.I. 2005/1643](#).

(18) [S.I. 2005/1992](#), amended by [S.I. 2005/3261](#).