
STATUTORY INSTRUMENTS

2007 No. 1520

The Road Tunnel Safety Regulations 2007

PART 2

General Requirements

Designation of administrative authority

4.—(1) For each road tunnel in England, Scotland or Wales, the national authority for the jurisdiction in which the road tunnel is situated, shall designate a traffic authority as the administrative authority.

(2) The Department for Regional Development⁽¹⁾ is the administrative authority for each road tunnel in Northern Ireland.

(3) Where a road tunnel is situated in more than one jurisdiction, the national authorities for those jurisdictions shall jointly appoint a traffic authority as the administrative authority for that road tunnel.

(4) A designation made under paragraph (1) or (3)—

- (a) shall be in writing;
- (b) may provide that it is to remain in force (unless it is withdrawn or otherwise ceases to have effect) for a specified period; and
- (c) shall be made—
 - (i) in relation to a road tunnel that is at the design stage, construction stage or in the operation stage at the time these Regulations come into force, as soon as is practicable after that time; and
 - (ii) in any other case, at the beginning of the design stage.

(5) In this regulation—

- (a) “national authority” means in relation to—
 - (i) England, the Secretary of State,
 - (ii) Wales, the National Assembly for Wales, and
 - (iii) Scotland, the Scottish Ministers; and
- (b) “traffic authority” in relation to England, Wales and Scotland has the meaning given by section 121A of the Road Traffic Regulation Act 1984⁽²⁾.

Duties of administrative authority

5.—(1) The administrative authority shall ensure that a road tunnel for which it is the administrative authority is subject to the commissioning procedure before it is opened to traffic—

⁽¹⁾ Established by article 3(1) of the Departments (Northern Ireland) Order 1999, S.I. 1999/283 (N.I.1).

⁽²⁾ 1984 c. 27.

- (a) for the first time; or
 - (b) after any modification has been carried out in relation to it.
- (2) The administrative authority in relation to a road tunnel for which it is the administrative authority shall—
- (a) ensure that the tests and inspections required by regulation 13 are carried out;
 - (b) following an inspection pursuant to regulation 13, draw up such additional safety requirements it considers appropriate;
 - (c) ensure operational and organisational schemes are in place in accordance with paragraph (3);
 - (d) ensure the procedure for that tunnel’s immediate closure in the event of an emergency is established; and
 - (e) ensure the risk reduction measures permitted pursuant to regulation 17 are implemented within the timetable specified pursuant to that regulation.
- (3) The administrative authority shall ensure that such operational and organisational schemes (including emergency response plans) are drawn up as are necessary for the training and equipping of the emergency services in the event of an emergency in relation to a road tunnel for which it is the administrative authority, and it shall ensure that—
- (a) the schemes are in writing;
 - (b) a copy of the schemes is held as part of the safety documentation;
 - (c) the schemes are sent to the relevant emergency services; and
 - (d) the schemes are updated from time to time.
- (4) If the administrative authority finds that a road tunnel for which it is the administrative authority is not in compliance with the provisions of these Regulations, it shall—
- (a) notify the Tunnel Manager and the Safety Officer of the measures to increase tunnel safety that must be adopted; and
 - (b) define the conditions for, where appropriate, continuing to operate that tunnel or re-opening that tunnel.

Administrative authority – duty to compile accident and fire reports

6.—(1) The administrative authority shall, for the two year period ending on 31 March 2008 and every two year period thereafter for which it is the administrative authority, compile a report containing the information set out in paragraph (2) in respect of fires and accidents which have occurred in the road tunnel, and which affect the safety of road users of that tunnel.

- (2) The report compiled under paragraph (1) shall—
- (a) evaluate the frequency and causes of those fires and accidents; and
 - (b) provide information on the role and effectiveness of the safety facilities and measures found in the road tunnel in question including any failures of safety-critical equipment.
- (3) The administrative authority shall send each report to the Secretary of State within 22 weeks of the expiry of the period to which it relates.

Administrative authority – suspension or restriction of use of a road tunnel

7.—(1) The administrative authority may, in relation to a road tunnel for which it is the administrative authority, suspend or restrict the operation of the road tunnel if safety requirements, (including any additional safety requirement drawn up pursuant to regulation 5(2)(b), and any risk

reduction measures permitted pursuant to regulation 17), or minimum operating requirements have not been met in relation to that tunnel.

(2) The administrative authority may, in relation to a road tunnel for which it is the administrative authority suspend or restrict the operation of a road tunnel in order to carry out periodic exercises pursuant to Annex II.

(3) In relation to a road tunnel located in Great Britain, sections 14 and 16 of the Road Traffic Regulation Act 1984 and the Road Traffic (Temporary Restrictions) Procedure Regulations 1992⁽³⁾, subject to the modifications set out in paragraph (7), shall apply to an order made under paragraphs (1) or (2) as if it were an order made under section 14(1) of that Act.

(4) In relation to a road tunnel located in Northern Ireland, Article 7 of, and Schedule 3 to, the Road Traffic Regulation (Northern Ireland) Order 1997⁽⁴⁾, subject to the modifications set out in paragraph (8), shall apply to a suspension or restriction made under paragraphs (1) or (2) as if it were a restriction or prohibition made under Article 7 of that Order.

(5) Where the administrative authority suspends or restricts the operation of a road tunnel pursuant to paragraph (1), it shall specify the conditions to be met in order for the suspension or restriction to be lifted and shall—

- (a) ensure that those conditions have been met before the suspension or restriction is lifted; and
- (b) when those conditions have been met, in relation to—
 - (i) an order relating to a road tunnel made in Great Britain, revoke that order, or
 - (ii) a suspension or restriction relating to a road tunnel made in Northern Ireland, lift the suspension or restriction.

(6) The administrative authority shall only suspend the operation of a road tunnel pursuant to paragraph (2) if satisfied that suitable arrangements can be made to divert traffic from that tunnel.

(7) In relation to an order made in relation to a road tunnel in Great Britain under paragraph (1) or (2), the Road Traffic (Temporary Restrictions) Procedure Regulations 1992 shall have effect subject to the following modifications—

- (a) in regulation 2(1) after the definition of ““the 1991 Act” insert the following definition ““the 2007 Regulations” means the Road Tunnel Safety Regulations 2007”;
- (b) in regulation 3—
 - (i) at the end of paragraph (1) insert “or regulation 7 of the 2007 Regulations”,
 - (ii) in paragraph (3)(a) after “section 14(1) of the 1984 Act” insert “or regulation 7(1) or (2) of the 2007 Regulations”,
 - (iii) in paragraph (3)(c) after “and its maximum duration” insert “ or the conditions to be met before the order will be revoked”,
 - (iv) in paragraph (6)(a) after “section 14(1) of the 1984 Act” insert “or regulation 7(1) or (2) of the 2007 Regulations”, and
 - (v) in paragraph (6)(c) after “and its maximum duration” insert “or the conditions to be met before the order will be revoked”; and
- (c) in regulation 15—
 - (i) in paragraph (2)(d) after “shall state the reason or purpose mentioned in section 14(1) of the 1984 Act” insert “or regulation 7(1) or (2) of the 2007 Regulations”, and

⁽³⁾ S.I. 1992/1215.

⁽⁴⁾ S.I. 1997/276 (N.I. 2)

- (ii) in paragraph 2(d) after “and its maximum duration” insert “or the conditions to be met before the order will be revoked”.

(8) In relation to a suspension or a restriction made under paragraph (1) or (2) in relation to a road tunnel in Northern Ireland, Article 7(5) of the Road Traffic Regulation (Northern Ireland) Order 1997 shall have effect with the substitution of the words “when the conditions imposed pursuant to regulation 7(5) of the Road Tunnel Safety 2007 Regulations have been met” for the words “at the end of the period of 18 months from the date on which the provision comes into force”.

Designation of the Tunnel Manager

8.—(1) The administrative authority shall, in relation to every road tunnel for which it is the administrative authority, designate a person to be the Tunnel Manager for (as appropriate) the design stage, the construction stage, and the operating stage.

- (2) The administrative authority may undertake the role of the Tunnel Manager.

Duties of the Tunnel Manager

9.—(1) The Tunnel Manager shall, in relation to a road tunnel, for which it is the Tunnel Manager—

- (a) be responsible for that tunnel’s management;
- (b) designate the Safety Officer pursuant to regulation 10;
- (c) compile the safety documentation in accordance with Annex II and ensure that in addition to the requirements of Annex II it includes—
 - (i) the operational schemes,
 - (ii) the risk analysis (if any), and
 - (iii) inspection reports prepared under regulation 13;
- (d) organise periodic exercises for tunnel staff and the emergency services in accordance with the requirements of paragraph 5 of Annex II;
- (e) prepare and forward incident reports in accordance with paragraph (3); and
- (f) forward investigation reports in accordance with paragraph (4).

(2) The Tunnel Manager for a road tunnel that has been subject to modification, shall ensure that the provisions of paragraph 4 of Annex II are complied with.

(3) The Tunnel Manager shall, within one month of an accident or significant incident occurring within a road tunnel for which it is the Tunnel Manager—

- (a) prepare a report on that accident or incident, (an incident report) that records the circumstances of the accident or incident; and
- (b) send the incident report to such of the emergency services as are appropriate (including the administrative authority and the safety officer).

(4) If the Tunnel Manager prepares an investigation report, that analyses the circumstances of the incident or accident referred to in paragraph (3) or the conclusions that can be drawn from it, he shall forward that report to the administrative authority, Safety Officer and such of the emergency services as are appropriate within one month of the preparation or receipt of that report.

Designation of the Safety Officer

10.—(1) The Tunnel Manager shall, in relation to the road tunnel for which it is the Tunnel Manager, and with the prior approval of the administrative authority, designate a Safety Officer for (as appropriate) the design stage, the construction stage, and the operating stage.

(2) The Safety Officer shall be independent in respect of road tunnel safety issues and shall not be under instructions from his employer in respect of those issues.

Duties of Safety Officers

- 11.** The Safety Officer shall, in respect of a road tunnel for which it is the Safety Officer—
- (a) ensure there is co-ordination with the emergency services, and take part in the preparation of the operational schemes;
 - (b) take part in the planning, implementation and evaluation of emergency operations;
 - (c) take part in the formulation of safety schemes and the specification of the structure, equipment and operation of new or modified road tunnels;
 - (d) verify that operational staff and relevant emergency services are trained in relation to the operational schemes, take part in the organisation of training exercises for this purpose, and ensure that such exercises are held at regular intervals;
 - (e) give advice on the commissioning of the structure, equipment and operation of that tunnel;
 - (f) verify that the tunnel’s structure and equipment is maintained and repaired; and
 - (g) take part in the evaluation of any significant incident or accident.

Appointment of inspection entity

12.—(1) The administrative authority shall, in relation to a road tunnel for which it is the administrative authority appoint a person to be the inspection entity.

- (2) The person appointed as the inspection entity must be—
- (a) a Chartered Engineer or headed by a Chartered Engineer;
 - (b) competent to carry out its functions; and
 - (c) functionally independent of the Tunnel Manager.

(3) The administrative authority may undertake the role of inspection entity provided that it fulfils the criteria set out in paragraph (2).

(4) For the purpose of this regulation a “chartered engineer” means a person who has been designated a Chartered Engineer by the Engineering Council UK.

Duties of inspection entity

13.—(1) In order to verify whether the road tunnel for which it is the inspection entity complies with the provisions of these Regulations, the inspection entity shall carry out in relation to the road tunnel the following inspections—

- (a) a thorough visual inspection of the fabric of the road tunnel;
- (b) a thorough visual inspection of the mechanical and electrical equipment of the road tunnel;
- (c) a detailed examination of all of the accessible parts of the road tunnel; and
- (d) a detailed examination and testing of the mechanical and electrical equipment of the road tunnel.

(2) The inspections and examinations referred to in paragraph (a) shall be carried out at the following intervals—

- (a) an inspection under paragraph (1)(a), within two years of these Regulations coming into force, or within two years of the road tunnel coming into operation, whichever is later, and thereafter every two years;
- (b) an inspection under paragraph (1)(b), annually;

- (c) an inspection under paragraph (1)(c), within six years of these Regulations coming into force, or within six years of the road tunnel coming into operation, whichever is later, and thereafter every six years; and
- (d) (1)(d) be carried out within three years of these Regulations coming into force, or within three years of the road tunnel coming into operation, whichever is later, and thereafter every three years.

(3) The inspection entity shall compile a report containing details of all inspections and investigations carried out under this regulation, and shall forward that report to the administrative authority, tunnel manager and safety officer.

(4) A report compiled pursuant to paragraph (3) shall include information on whether or not the part of the road tunnel inspected comply with the provisions of these Regulations and if those parts of the road tunnel do not comply with the provisions of these Regulations—

- (a) a description of how that tunnel fails to so comply; and
- (b) a recommendation of the measures (if any) to be adopted in order to increase that tunnel's safety.

Appointment and duties of the technical approval authority

14.—(1) The relevant highway authority or, in relation to Scotland, the roads authority shall at the design stage of a proposed road tunnel, appoint in relation to that tunnel, such persons as they think fit to be the technical approval authority.

(2) The technical approval authority shall be the responsible authority for the purposes of approving the design of the road tunnel under Annex II.

(3) For the purpose of this regulation—

- (a) “highway authority” in relation to—
 - (i) England and Wales has the same meaning as in the Highways Act 1980⁽⁵⁾, and
 - (ii) Northern Ireland means the Department for Regional Development⁽⁶⁾; and
- (b) “roads authority” has the same meaning as in section 151 of the Roads (Scotland) Act 1984⁽⁷⁾;

Road Tunnels already in operation

15.—(1) This regulation only applies to road tunnels that were open to public traffic prior to 30th April 2006.

(2) The administrative authority shall ensure that the road tunnel has been assessed by means of an inspection, in order to ascertain whether the requirements of these Regulations have been met.

(3) Where necessary, the Tunnel Manager for a road tunnel shall ensure that proposals have been put to the administrative authority for a plan for adapting the road tunnel to the provisions of these Regulations, including the remedial measures so required.

(4) The administrative authority shall—

- (a) approve the plan and remedial measures proposed under paragraph (3) or request changes to the plan and remedial measures proposed under paragraph (3), and then if satisfied with those changes approve the plan and measures; and

⁽⁵⁾ 1980 c. 66.

⁽⁶⁾ Established by article 3(1) of the Departments (Northern Ireland) Order 1999, S.I. 1999/283 (N.I.1)

⁽⁷⁾ 1984 c. 54.

(b) ensure that the approved plan or remedial measures are followed and any works required by the plan or remedial measures are completed by 30th April 2014.

(5) If the remedial measures approved by the administrative authority under paragraph (4) result in modification to the construction or operation of the road tunnel, the administrative authority shall ensure that once the measures have been adopted the commissioning procedure and the requirements of paragraph 4 of Annex II have been followed.

(6) The administrative authority shall by 20th July 2007 provide the Secretary of State with a report in respect of the road tunnel that provides information on—

- (a) how the requirements of these Regulations will be met;
- (b) the measures and plans approved under paragraph (4); and
- (c) the consequences (if any) of opening or closing the main access roads to that tunnel.

(7) The administrative authority shall provide the Secretary of State with a plan, including a timetable, for the gradual compliance of the road tunnel to the requirements of these Regulations as soon as practicable, and report on the state of the plan and any changes to it by 1st October 2006 and by 1st October in every second year thereafter until 2014.

Safety Requirements to be met by road tunnels

16. Except where a risk reduction measure is to be used pursuant to regulation 17 or where a derogation has been granted pursuant to regulation 19 or permitted pursuant to paragraph 1.2.1 of Annex 1, the administrative authority shall ensure that a road tunnel that was—

- (a) put into operation for the first time on or after the coming into force of these Regulations, meets the safety requirements; or
- (b) in operation prior to 30th April 2006 meets the safety requirements by 30th April 2014.

Risk Reduction Measures

17.—(1) Where the safety requirements specify a structural requirement that can only be satisfied by means of a technical solution that is not possible to achieve, or only achievable at disproportionate cost, the Tunnel Manager may apply to the administrative authority for authority to use a risk reduction measure.

(2) Where the same body is both the administrative authority and the Tunnel Manager, an application referred to in paragraph (1) shall be considered by a person who is functionally independent from the persons acting on behalf of the body in its capacity as Tunnel Manager.

(3) The administrative authority shall not permit the use of a risk reduction measure unless a risk analysis demonstrates that the measure will result in equivalent or improved protection for users of the road tunnel, compared to the relevant structural requirement in the safety requirements.

(4) Where the administrative authority permits the use of a risk reduction measure it shall—

- (a) specify a timetable for implementation of that measure; and
- (b) notify the Secretary of State of the risk reduction measure to be used and the structural requirement that it replaces.

(5) This Regulation does not apply in relation to a road tunnel that is at the design stage but the design of which had not been approved by the technical approval authority by 1st May 2006.

Risk Analysis

18.—(1) A risk analysis shall be carried out by a person that is functionally independent from the Tunnel Manager.

(2) The person carrying out the risk analysis shall produce a report in relation to the proposed risk reduction measure which includes the following matters—

- (a) consideration of the risks for the safety of users of the road tunnel taking into account all design factors and traffic conditions that affect safety, including traffic characteristics and type, the length of the road tunnel, that tunnel's geometry and the forecast of the number of heavy goods vehicles which are likely to use that tunnel each day;
- (b) evaluation of whether the proposed measure will result in equivalent or improved protection for users of the road tunnel, to the safety requirement that it is to replace;
- (c) identification of the potential hazards arising from the use of the proposed risk reduction measure;
- (d) identification of the users of the road tunnel who could be affected by the hazards referred to in sub paragraph (c);
- (e) evaluation of the probabilities of harm occurring to the persons identified in sub paragraph (d); and
- (f) evaluation of the adequacy of the safety requirement that the proposed measure is to replace.

(3) The risk analysis shall be included in the safety documentation.

Derogations for innovative techniques

19.—(1) The Tunnel Manager may at any time during the design, construction or operation of a road tunnel make a request in writing to the administrative authority for a derogation from the requirements of these Regulations in relation to the—

- (a) installation and use of innovative safety equipment; or
- (b) use of innovative safety procedures,

which provide an equivalent or higher level of protection than current technologies as prescribed in these Regulations.

(2) A request made pursuant to paragraph (1) shall be accompanied by the following information—

- (a) a description of the road tunnel in relation to which the derogation is sought including a description of any physical or operational features relevant to the request;
- (b) a description of the proposed procedure or equipment;
- (c) an explanation of why the proposed procedures or equipment are innovative;
- (d) a description, and where appropriate a demonstration, of—
 - (i) how the proposed procedure or equipment will provide equivalent or higher level of protection than the procedures or equipment required by these Regulations, and
 - (ii) why the procedures or equipment required by these Regulations cannot or should not be used in the road tunnel; and
- (e) a written report prepared by the inspection entity setting out its opinion of the request and stating whether or not the proposed procedure or equipment will provide an equivalent or higher level of protection than that provided by the procedures or equipment prescribed by these Regulations.

(3) If the administrative authority considers that the information provided by the Tunnel Manager with a request made under paragraph (1) is insufficient to enable it to make a decision the administrative authority shall notify the Tunnel Manager in writing of the additional information it requires in order to make that decision.

(4) On receiving a notification under paragraph (3) the Tunnel Manager shall provide the administrative authority with such of the additional information specified in that notification as the Tunnel Manager is reasonably able to supply and, where any of that additional information so specified is not provided, a written explanation as to why the Tunnel Manager is unable to provide it.

(5) If the administrative authority considers that the use or installation of the proposed innovative safety equipment or the use of the proposed innovative safety procedures will not provide equivalent or higher level of protection to users of the road tunnel it shall refuse the request.

(6) If the administrative authority decides that the request for a derogation should not be granted it shall give the Tunnel Manager reasons for that decision in writing.

(7) If the administrative authority decides that a derogation should, subject to the view of the Commission, be granted it shall forward the request made and information sent under paragraphs (1) (2) and (4) to the Secretary of State.

(8) The Secretary of State shall forward the information sent under paragraph (7) to the Commission within one month of receiving that information.

(9) On receipt of confirmation from the Commission that in relation to the request made under this regulation—

(a) no objection has been made to the Commission under Article 14 of the Road Tunnel Directive, or an objection has been made to the Commission under Article 14 of the Road Tunnel Directive, and following the procedure prescribed by that Article, a positive decision has been made by the Article 17 committee, the Secretary of State shall notify the administrative authority that it may grant the request made under paragraph (1); or

(b) an objection has been made to the Commission under Article 14 of the Road Tunnel Directive and, following the procedure prescribed by that Article, a negative decision has been made by the Article 17 committee, the Secretary of State shall notify the administrative authority that it may not grant the request made under paragraph (1).

(10) The administrative authority shall notify the Tunnel Manager, within 2 weeks of receipt of the confirmation set out in paragraph (9) whether the request made under paragraph (1) has been granted or refused.

(11) For the purpose of this regulation—

(a) “innovative” in relation to safety equipment and safety procedures means safety equipment or safety procedures that are not provided for in these Regulations; and

(b) “Article 17 Committee” means the Committee set up pursuant to Article 17 of the Road Tunnel Directive.

Application of Regulations where the same person undertakes functions of different authorities

20.—(1) Where these Regulations impose on one of the authorities specified in paragraph (2) any obligation to send information or documentation to another such authority, that obligation shall apply notwithstanding that the same person acts as both authorities.

(2) Those authorities are—

(a) an administrative authority;

(b) a Tunnel Manager; and

(c) the Secretary of State.

Notification to the Commission

21. The Secretary of State shall send to the Commission—

- (a) notification of the name and address of the administrative authorities designated under regulation 4;
- (b) notification of the risk reduction measures permitted by the administrative authority pursuant to regulation 17;
- (c) by 30th September 2008, and by 30th in every second year thereafter, a consolidated copy of the reports sent to him pursuant to regulation 6;
- (d) by 17th August 2007 a consolidated copy of the reports sent to him pursuant to regulation 15(6); and
- (e) on 30th October 2008 and on 30th October in every second year thereafter until 2014 a consolidated copy of the plans sent to him pursuant to regulation 15(7).