
STATUTORY INSTRUMENTS

2007 No. 3531

The Channel Tunnel (Safety) Order 2007

Enforcement of the Regulation

4.—(1) Subject to paragraphs (5) and (6), it is the duty of the Office of Rail Regulation to make adequate arrangements for the enforcement of the Regulation.

(2) Subject to paragraphs (4) to (6), the provisions of the 1974 Act specified in paragraph (3) (the “specified provisions”) apply for the purposes of the enforcement of the Regulation as if in the specified provisions—

- (a) a reference to the “enforcing authority” was a reference to the Office of Rail Regulation;
- (b) a reference to the “relevant statutory provisions” was a reference to the Regulation and to the specified provisions; and
- (c) a reference to “health and safety regulations” was a reference to the Regulation.

(3) The provisions of the 1974 Act referred to in paragraph (2) are—

- (a) sections 19 and 20 (appointment and powers of inspectors)(1), excluding section 20 (3);
- (b) sections 21 and 22 (improvement and prohibition notices)(2);
- (c) section 23 (provisions supplementary to sections 21 and 22)(3), excluding section 23(6);
- (d) section 24 (appeal against improvement or prohibition notice)(4);
- (e) section 25 (power to deal with cause of imminent danger);
- (f) section 26 (power to indemnify inspectors);
- (g) section 28 (restrictions on disclosure of information)(5);
- (h) sections 33 (1) (c), (e) to (h), (k) to (o), (2), (2A) and (3), 34 (1) (c) and (d) and (2) to (5), 35, 36 (1) and (2), 37 to 41 and 42 (1) to (3) (provisions as to offences)(6); and
- (i) section 46 (service of notices).

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- (1) Section 20(7) was amended by the Civil Partnership Act 2004 (c. 33), section 261(1) and Schedule 27, paragraph 49.
- (2) Section 22(1) and (2) was amended by the Consumer Protection Act 1987 (c. 43), section 3 and Schedule 3. Section 22(4) was substituted by the Consumer Protection Act 1987, section 3 and Schedule 3.
- (3) Section 23(4) was amended by the Fire and Rescue Services Act 2004 (c. 21), section 53(1) and Schedule 1, paragraph 44, and by S.I.2005/1541, article 53(1) and Schedule 2, paragraph 9.
- (4) Section 24 (2) and (4) was amended by the Employment Rights (Dispute Resolution) Act 1998 (c. 8), section 1(2) (a).
- (5) Section 28(3) and (5) were amended by the Environment Act 1995 (c. 25), section 120 and Schedule 22, paragraph 30(6) and Schedule 24; by the Water Act 1989 (c. 15), section 190 and Schedule 25, paragraph 46; and by S.I. 2004/3363, article 5(1) and (2). Section 28(4) was amended by the Environment Act 1995, section 120 and Schedule 22, paragraph 30(6) (e). Section 28(6) was substituted by the Local Government Act 1985 (c. 51), section 84 and Schedule 14, paragraph 52; and was amended by the Education Reform Act 1988 (c. 40), section 237 and Schedule 13, Part 1; and by the Greater London Authority Act 1999 (c. 29), section 328 and Schedule 29, Part 1 paragraph 23. Section 28(9) was inserted by the Employment Protection Act 1975 (c. 71), section 116 and Schedule 15, paragraph 9. Section 28(9A) was inserted by S.I. 2004/3363, article 5(1) and (4). There are other amendments to section 28 not relevant to this Order.
- (6) Section 33(1) (c) was amended by the Employment Protection Act 1975 (c. 71), sections 116 and 125(3) and Schedule 15, paragraph 11, and Schedule 18. Section 33(1) (h) was amended by the Consumer Protection Act 1987, section 36 and Schedule 3. Section 33(1) (m) was amended by the Forgery and Counterfeiting Act 1981 (c. 45), section 30 and Part 1 of the Schedule. Section 33(2A) was inserted by the Offshore Safety Act 1992 (c. 15), section 4(2), (3) and (6). Maximum fine referred to in section 33(2) increased by the Criminal Law Act 1977 (c. 45), section 31 and Schedule 6 and converted to a level on the standard scale by the Criminal Justice Act 1982 (c. 48), sections 37 and 46. Section 33(3) was amended by the Offshore Safety Act 1992, section 4(4) and (6); and by the Magistrates Courts Act 1980 (c. 43), section 32(2).

- (4) For the purposes of the enforcement of the Regulation section 33(1)(c) of the 1974 Act (offences) only applies to contraventions of—
- (a) articles 13 iv, 15 iv, 16, 22 to 25, 27, 34 (a) and (b), 39, 51, 52 (a) and (b) and 61 of the Regulation; and
 - (b) any requirement or prohibition to which a person is subject by virtue of the terms of or any condition or restriction attached to any—
 - (i) authorisation of rolling stock;
 - (ii) safety authorisation; or
 - (iii) Part B certificate;given under the Regulation, including any deemed authorisation or Part B certificate referred to in articles 66, 73 or 74 of the Regulation.
- (5) Paragraphs (1) and (2) do not apply in respect of the following articles of the Regulation—
- (a) articles 6 and 7 (safety authority);
 - (b) articles 56 to 60 (access to training facilities); and
 - (c) articles 67 to 72 (investigations into accidents and incidents).
- (6) Paragraphs (1) and (2) do not apply for the purpose of enforcing the obligations of the Intergovernmental Commission under the Regulation.