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STATUTORY INSTRUMENTS

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**2010 No. 1504**

**The Rail Passengers' Rights and Obligations Regulations 2010**

**PART 3**

**Regulation of the railway**

**Enforcement body: the Office of Rail Regulation**

**13.**—(1) Subject to paragraph (4), the ORR is designated as the enforcement body for the purposes of Article 30(1) of the European Regulation.

(2) Accordingly, it is the duty of the ORR to use its powers under these Regulations and any other enactment to take the measures necessary to ensure that the European Regulation is complied with.

(3) Section 4(1) to (6) of the 1993 Act (general duties of the Secretary of State and the Office of Rail Regulation) do not apply in relation to the performance by the ORR of its functions under Part 1 of the 1993 Act or the Railways Act 2005(1) in so far as its exercise of those functions is for the purposes of ensuring that the European Regulation is complied with.

(4) The ORR is not the enforcement body in relation to Article 26 of the European Regulation (personal security of passengers).

**Duties of the ORR in respect of station licences**

**14.**—(1) The ORR must include, or require the Secretary of State to include, in a station licence issued under section 8 of the 1993 Act on or after the date on which these Regulations come into force conditions that ensure that the licence holder complies with the provisions of the European Regulation specified in the Schedule that apply to station managers.

(2) Where a station licence has been issued before the date on which these Regulations come into force, the ORR may, where in its opinion it is necessary or expedient to do so—

- (a) modify or require to be modified any existing licensing condition, or
- (b) impose or require to be imposed a licence condition,

in each case to ensure that the licence holder complies with the provisions of the European Regulation specified in the Schedule that apply to station managers.

(3) This regulation applies only in relation to the operation of stations used or to be used for the purposes of rail journeys to which the European Regulation applies.

(4) In this regulation, “station” and “station licence” have the meaning given by section 83 of the 1993 Act.

**Duties of the ORR in respect of European licence conditions**

15.—(1) The ORR must include in any statement of national regulatory provisions issued under the Railway (Licensing of Railway Undertakings) Regulations 2005<sup>(2)</sup>, on or after the date on which these Regulations come into force, conditions that ensure that the licence holder complies with the provisions of the European Regulation specified in the Schedule that apply to railway undertakings.

(2) Where such a statement has been issued before the date on which these Regulations come into force, the ORR may, where in its opinion it is necessary or expedient to do so—

- (a) modify any existing condition in the statement, or
- (b) impose in the statement a condition,

in each case to ensure that the licence holder complies with the provisions of the European Regulation specified in the Schedule that apply to railway undertakings.

**Personal security of passengers**

16. Where in the opinion of the Secretary of State it is necessary or expedient to do so, the Secretary of State shall use the powers under section 119 of the 1993 Act to ensure that Article 26 of the European Regulation (personal security of passengers) is enforced.

**Channel Tunnel Rail Link station operators and independent ticket vendors**

17.—(1) Subject to regulation 13<sup>(3)</sup>, sections 55 to 58 of the 1993 Act apply to a breach of the requirements to which paragraphs (2) and (3) apply as those sections apply to a breach by a licence holder of the conditions of its licence.

(2) This paragraph applies to a breach by the operator of a rail link station of the requirements imposed on station managers by the provisions of the European Regulation listed in the Schedule.

(3) This paragraph applies to a breach by a ticket vendor who is not a railway undertaking of the requirements imposed on ticket vendors by the provisions of the European Regulation listed in the Schedule.

(4) In this regulation—

“operator”, “licence” and “licence holder” have the same meaning as in Part I of the 1993 Act<sup>(3)</sup>;

“rail link station” has the same meaning as in section 16 of the Channel Tunnel Rail Link Act 1996<sup>(4)</sup>.

**Bodies handling complaints**

18.—(1) The Passengers’ Council is designated as a body to which complaints may be made under Article 30(2) of the European Regulation, in relation to matters that fall within its functions under any enactment (other than this regulation), disregarding any order made under section 76(7B) or (7C) of the 1993 Act<sup>(5)</sup> (power to exclude specified services from general duties of the Passengers’ Council).

(2) In matters for which the Passengers’ Council is a body to which complaints may be made under Article 30(2) of the European Regulation, section 76 of the 1993 Act (general duties of the Passengers’ Council) has effect as if—

- (a) in subsection (5)—

(2) S.I. 2005/3050.

(3) See sections 55 and 83 of that Act.

(4) 1996 c.61.

(5) Section 76(7B) and (7C) were inserted by the Transport Act 2000 (c.38), section 228(1) and (4).

- (i) the references to the Secretary of State included a reference to the ORR, and
  - (ii) in relation to a matter being referred to the ORR under that subsection as modified by paragraph (i), the words “unless representations about the matter have been made to the Secretary of State by the Passengers’ Council” were omitted,
- (b) subsection (5A)(6) were omitted, and
- (c) in subsection (7), the reference to the Secretary of State included a reference to the ORR.
- (3) The London Transport Users’ Committee is designated as a body to which complaints may be made under Article 30(2) of the European Regulation, in relation to matters that fall within its functions under any enactment (other than this regulation), disregarding any order made under section 252E of the Greater London Authority Act 1999(7) (power to make exclusions from duties of Committee).
- (4) In matters for which the London Transport Users’ Committee is a body to which complaints may be made under Article 30(2) of the European Regulation, section 252C of the Greater London Authority Act 1999 (action on investigation under section 252B) has effect as if—
- (a) in subsection (3)—
    - (i) the references to the Secretary of State included a reference to the ORR, and
    - (ii) in relation to a matter being referred to the ORR under that subsection as modified by paragraph (i), the words “subject to subsection (4)” were omitted,
  - (b) subsection (4) did not apply in relation to the reference of a matter to the ORR under that subsection as modified by sub-paragraph (a)(i),
  - (c) subsection (5) were omitted, and
  - (d) in subsection (6), the reference to the Secretary of State included a reference to the ORR.

### **Restrictions on disclosure of information**

**19.** Section 145 of the 1993 Act (restriction on disclosure of information) shall have effect in relation to information—

- (a) which has been obtained by the ORR, the Passengers’ Council or the London Travel Users’ Committee in the exercise of their functions under Article 30, and
- (b) which relates to the affairs of any individual or to any particular business,

as it has effect in relation to such information obtained under or by virtue of any of the provisions of that Act.

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(6) Section 76(5A) was inserted by the Transport Act 2000, Schedule 17, and amended by the Railways Act 2005 (c.14), Schedule 1, and the Railways and Transport Safety Act 2003 (c.20), Schedule 2.

(7) 1999 c.29. Sections 252A to 252E were inserted by the Railways Act 2005 (c.14), Schedule 6.