
STATUTORY INSTRUMENTS

2016 No. 645

**The Railways (Access, Management and Licensing
of Railway Undertakings) Regulations 2016**

PART 6

Regulation and Appeals

Enforcement of decisions, directions and notices

38.—(1) If the Office of Rail and Road is satisfied that a relevant operator has contravened, or is contravening, a relevant decision, direction or notice, it may impose on the relevant operator a penalty of such amount as is reasonable.

(2) In this regulation—

(a) “relevant decision, direction or notice” means—

- (i) a decision made, or direction issued, by the Office of Rail and Road under regulation 31, 32, 33 or 34;
- (ii) a direction given by the Office of Rail and Road under section 17 or 22A of the Act^{M1}, where the direction relates to a matter referred to in regulation 32(2)(c) to (g) and was applied for as a result of regulation 32(3); or
- (iii) a notice served by the Office of Rail and Road under section 80 of the Act, as modified by regulation 36; and

(b) “relevant operator” means—

- (i) a person issued with a decision or direction under regulation 31, 32, 33 or 34;
- (ii) a person to whom a direction of the kind described in sub-paragraph (a)(ii) has been given; or
- (iii) a person on whom a notice is served under section 80 of the Act, as modified by regulation 36.

(3) Sections 57A(2), (3), (6) and (7), 57B(1) to (6), 57C, 57D(1), 57E and 57F of the Act^{M2} (“the applicable provisions”) have effect in relation to a penalty imposed under paragraph (1) as if it had been imposed under section 57A(1) of the Act.

(4) For the purposes of paragraph (3)—

- (a) references in the applicable provisions to the “relevant operator” are to be construed in accordance with this regulation;
- (b) references in the applicable provisions to the “appropriate authority” are to be read as references to the Office of Rail and Road;
- (c) section 57A(2) has effect as if for paragraphs (a) and (b) there were substituted “to the Secretary of State.”;
- (d) references in section 57B(1) and (3) to (6) to “the Secretary of State, the Scottish Ministers and the Office of Rail and Road” are to be read as references to the Office of Rail and Road;

- (e) references in section 57B(3) and (4) to “his, their or its” are to be read as references to “its”;
- (f) in sections 57B(2) and 57C, any reference to a “relevant condition or requirement or order” has effect as if it included a reference to a relevant decision, direction or notice;
- (g) section 57D(1) has effect as if for paragraphs (a) and (b) there were substituted—
“of a relevant decision, direction or notice (within the meaning of regulation 38 of the Railways (Access, Management and Licensing of Railway Undertakings) Regulations 2016 ^{M3},”; and
- (h) section 57F(1) has effect as if for paragraph (a) there were substituted—
“(a) that it was not within the powers of regulation 38(1) of the Railways (Access, Management and Licensing of Railway Undertakings) Regulations 2016,”.

Marginal Citations

- M1** 1993 c. 43. Section 17 is amended by the [Transport Act 2000 \(c. 38\)](#), section 233(1), [Schedule 27](#), paragraphs 17 and 21, and Schedule 31, Part 4; the [Railways Act 2005 \(c. 14\)](#), [Schedule 1, Part 1](#), paragraph 12(1) and (2) and Schedule 11, paragraphs 1 and 3(a); S.I. 1998/1340, [regulation 21\(5\)](#); S.I. 2005/3049, [Schedule 1, Part 1](#), paragraph 4(a) and (b); and S.I. 2015/1682, [Schedule](#), Part 1, paragraph 1(y). Section 22A was inserted by the Transport Act 2000, section 232(2), and amended by S.I. 2005/3049, [Schedule 1\(1\)](#), paragraph 4(d); and S.I. 2015/1682, [Schedule](#), Part 1, paragraph 1(ff).
- M2** 1993 c. 43. Sections 57A–57F were inserted by the [Transport Act 2000 \(c. 38\)](#), [section 225\(1\)](#). Section 57A is amended by the [Railways Act 2005 \(c. 14\)](#), [Schedule 1, Part 1](#), paragraph 23(1) and (2); the [Enterprise and Regulatory Reform Act 2013 \(c. 24\)](#), [Schedule 14](#), paragraphs 11 and 13; and S.I. 2015/1682, [Schedule](#), Part 1, paragraph 1(ll). There are other amendments to section 57A not relevant to these Regulations. Section 57B is amended by the Railways Act 2005, Schedule 1, Part 1, paragraph 24(1); the [Railways and Transport Safety Act 2003 \(c. 20\)](#), [Schedule 2, Part 1](#), paragraphs 1 and 18(a), and Schedule 8; and S.I. 2015/1682, [Schedule](#), Part 1, paragraph 1(mm). Section 57C is amended by the Railways and Transport Safety Act 2003, Schedule 2, Part 1, paragraphs 1 and 3(b); the Railways Act 2005, Schedule 1, Part 1, paragraph 25; and S.I. 2015/1682, [Schedule](#), Part 1, paragraph 1(nn). Paragraph 57F is amended by the Railways Act 2005, Schedule 11, paragraphs 1 and 8.
- M3** [S.I. 2016/645](#).

Changes to legislation:

There are currently no known outstanding effects for the The Railways (Access, Management and Licensing of Railway Undertakings) Regulations 2016, Section 38.