
STATUTORY INSTRUMENTS

2019 No. 700

**EXITING THE EUROPEAN UNION
TRANSPORT**

**The Railway (Licensing of Railway Undertakings)
(Amendment etc.) (EU Exit) Regulations 2019**

Made - - - - 26th March 2019

Coming into force in accordance with regulation 1(2)

The Secretary of State, in exercise of the powers conferred by sections 8(1) and 23(1) of, and paragraph 1 of Schedule 4 and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018⁽¹⁾ and with the consent of the Treasury, makes these Regulations.

In accordance with paragraphs 1(1), 12(1) and 15(1) of Schedule 7 to the European Union (Withdrawal) Act 2018, a draft of these Regulations has been laid before Parliament and approved by resolution of each House of Parliament.

PART 1

Introductory

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Railway (Licensing of Railway Undertakings) (Amendment etc.) (EU Exit) Regulations 2019.

(2) These Regulations come into force on exit day.

(3) These Regulations do not extend to Northern Ireland, subject to paragraph (4).

(4) Regulation 31 extends to England and Wales, Scotland and Northern Ireland.

(5) Subject to paragraphs (3) and (4), an amendment, repeal or revocation made by these Regulations has the same extent as the provision amended, repealed or revoked.

(1) 2018 c. 16. The Secretary of State is an “appropriate authority” for the purposes of paragraph 1 of Schedule 4 to the 2018 Act (see paragraph 2(1)).

Commencement Information

- I1** [Reg. 1](#) in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see [reg. 1\(2\)](#)

Interpretation

2. In these Regulations—

“the 2005 Regulations” means the Railway (Licensing of Railway Undertakings) Regulations 2005(2);

“ORR” means the Office of Rail and Road, established under section 15 of the Railways and Transport Safety Act 2003(3).

Commencement Information

- I2** [Reg. 2](#) in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see [reg. 1\(2\)](#)

PART 2

Amendments to the Railway (Licensing of Railway Undertakings) Regulations 2005

Amendments

- 3.** The 2005 Regulations are amended in accordance with this Part.

Commencement Information

- I3** [Reg. 3](#) in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see [reg. 1\(2\)](#)

Regulation 2 (interpretation)

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

(a) omit the definitions of “the 1995 Directive”, “the 2012 Directive”, “EEA State” and “European licence”;

(b) at the appropriate place, insert—

““railway undertaking licence” means a licence, granted by the ORR to a railway undertaking pursuant to these Regulations, which authorises the undertaking to provide such train services as may be specified in the licence;”.

(2) [S.I. 2005/3050](#), amended by [S.I. 2010/439](#), [2011/1043](#), [2015/1682](#), [2016/645](#).

(3) [2003 c. 20](#); section 15 was amended by the Office of Rail Regulation (Change of Name) Regulations, [S.I. 2015/1682](#).

Commencement Information

- I4** [Reg. 4](#) in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see [reg. 1\(2\)](#)

Regulation 4 (scope)

- 5.—(1) Regulation 4 (scope) is amended as follows.
- (2) In paragraph (1)—
- (a) after “train services” insert “in Great Britain”;
 - (b) omit “and are established or to be established in an EEA State”.
- (3) In paragraph (3)—
- (a) in sub-paragraph (a), omit “including a cross-border conurbation,”;
 - (b) in sub-paragraph (b), omit “, including a cross-border region”.

Commencement Information

- I5** [Reg. 5](#) in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see [reg. 1\(2\)](#)

Part 2 (European licences)

6. In the heading of Part 2 (European licences), for “European” substitute “Railway Undertaking”.

Commencement Information

- I6** [Reg. 6](#) in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see [reg. 1\(2\)](#)

Regulation 5 (prohibition of unlicensed provision of services)

7. In regulation 5 (prohibition of unlicensed provision of services)—
- (a) in paragraph (1), for “European” substitute “railway undertaking”;
 - (b) omit paragraph (4).

Commencement Information

- I7** [Reg. 7](#) in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see [reg. 1\(2\)](#)

Regulation 6 (appointment of licensing authority and grant of European licences)

- 8.—(1) Regulation 6 (appointment of licensing authority and grant of European licences) is amended as follows.
- (2) In the heading, for “European” substitute “railway undertaking”.

- (3) In paragraph (1)—
 - (a) omit “designated as”;
 - (b) for “European” substitute “railway undertaking”.
- (4) In paragraph (2)—
 - (a) for “European” substitute “railway undertaking”;
 - (b) omit “and inform the Commission of those procedures”.
- (5) In paragraph (3)—
 - (a) in the words before sub-paragraph (a), for “European” substitute “railway undertaking”;
 - (b) omit sub-paragraph (a) (including the “and” at the end of that sub-paragraph).
- (6) In paragraph (4), for “European” substitute “railway undertaking”.
- (7) Omit paragraph (4A).
- (8) In paragraphs (7) to (11), for “European”, in each place it occurs, substitute “railway undertaking”.
- (9) In paragraph (12)—
 - (a) for “European licence” substitute “railway undertaking licence”;
 - (b) for “European Commission” substitute “Secretary of State”.
- (10) In paragraph (14), for “European” substitute “railway undertaking”.

Commencement Information

18 [Reg. 8](#) in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see [reg. 1\(2\)](#)

Regulation 7 (validity of European licences)

- 9. In regulation 7 (validity of European licences)—
 - (a) in the heading, for “European” substitute “railway undertaking”;
 - (b) in paragraphs (1) and (2), for “European”, in both places it occurs, substitute “railway undertaking”.

Commencement Information

19 [Reg. 9](#) in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see [reg. 1\(2\)](#)

Regulation 8 (monitoring, suspension and revocation of European licences)

- 10.—(1) Regulation 8 (monitoring, suspension and revocation of European licences) is amended as follows.
 - (2) In the heading, for “European” substitute “railway undertaking”.
 - (3) In paragraph (1)—
 - (a) omit “Subject to paragraph (5),”;
 - (b) for “European” substitute “railway undertaking”.

(4) In paragraphs (3) and (4), for “European”, in both places it occurs, substitute “railway undertaking”.

(5) Omit paragraph (5).

(6) In paragraphs (6) to (11) and (13), for “European”, in each place it occurs, substitute “railway undertaking”.

(7) In paragraph (14)—

(a) for “European licence” substitute “railway undertaking licence”;

(b) for “European Railway Agency” substitute “Secretary of State”.

Commencement Information

I10 [Reg. 10](#) in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see [reg. 1\(2\)](#)

Regulation 9 (prohibition on operating trains without a statement of national regulatory provisions)

11. In regulation 9 (prohibition on operating trains without a statement of national regulatory provisions)—

(a) in paragraph (1), for “European” substitute “railway undertaking”;

(b) omit paragraph (5).

Commencement Information

I11 [Reg. 11](#) in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see [reg. 1\(2\)](#)

Regulation 10 (statements of national regulatory provisions)

12. In regulation 10 (statements of national regulatory provisions), in paragraphs (1) and (2)(b), for “European”, in both places it occurs, substitute “railway undertaking”.

Commencement Information

I12 [Reg. 12](#) in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see [reg. 1\(2\)](#)

Regulation 11 (conditions of statements of national regulatory provisions)

13. In regulation 11 (conditions of statements of national regulatory provisions)—

(a) in paragraph (1), for “European” substitute “railway undertaking”;

(b) in paragraph (4) omit sub-paragraph (a) (including the “or” at the end of that sub-paragraph).

Commencement Information

I13 [Reg. 13](#) in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see [reg. 1\(2\)](#)

Regulation 12 (referral for Commission’s opinion)

14. Omit regulation 12 (referral for Commission’s opinion).

Commencement Information

I14 [Reg. 14](#) in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see [reg. 1\(2\)](#)

Regulation 17 (general duties of the Rail Passengers’ Council)

15. In regulation 17 (general duties of the Rail Passengers’ Council)—
(a) in paragraph (1), for “European”, in each place it occurs, substitute “railway undertaking”;
(b) omit paragraph (2).

Commencement Information

I15 [Reg. 15](#) in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see [reg. 1\(2\)](#)

Regulation 19 (duties of the London Transport Users’ Committee)

16. In regulation 19 (duties of the London Transport Users’ Committee)—
(a) in paragraph (1), for “European”, in both places it occurs, substitute “railway undertaking”;
(b) omit paragraph (2).

Commencement Information

I16 [Reg. 16](#) in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see [reg. 1\(2\)](#)

Regulation 21 (review)

17. In regulation 21 (review) omit paragraph (2).

Commencement Information

I17 [Reg. 17](#) in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see [reg. 1\(2\)](#)

Schedule 2 (qualifications for European licence)

18. In Schedule 2 (qualifications for European licence)—

- (a) in the heading of the Schedule, for “European” substitute “railway undertaking”;
- (b) in paragraphs 1, 6 and 11(1), for “European”, in each place it occurs, substitute “railway undertaking”.

Commencement Information

I18 [Reg. 18](#) in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see [reg. 1\(2\)](#)

Schedule 4 (transitional provisions relating to existing licences and licence exemptions)

19.—(1) Schedule 4 (transitional provisions relating to existing licences and licence exemptions) is amended as follows.

- (2) In paragraph 2, for “Paragraphs 3 and 4 apply” substitute “Paragraph 4 applies”.
- (3) Omit paragraph 3.
- (4) In paragraph 5, for “Paragraphs 6 and 7 apply” substitute “Paragraph 7 applies”.
- (5) Omit paragraphs 6 and 8.

Commencement Information

I19 [Reg. 19](#) in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see [reg. 1\(2\)](#)

PART 3

Consequential amendments to primary legislation

The Railway Fires Act 1905

20. In section 4 of the Railway Fires Act 1905(4) (definitions and application)—

- (a) omit the definition of “EEA State”;
- (b) in the definition of “railway company”, for paragraph (c) substitute—
 - “(c) who holds a railway undertaking licence granted pursuant to the Railway (Licensing of Railway Undertakings) Regulations 2005;”.

Commencement Information

I20 [Reg. 20](#) in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see [reg. 1\(2\)](#)

(4) [1905 c. 11](#); the definition of “railway company” was inserted by the Railways Act [1993 \(c.43\)](#), Schedule 12, paragraph 2(2) and [SR 2005/357](#); the definition was amended by [S.I. 2005/3050](#) and [2016/645](#).

The Insolvency Act 1986

21. In paragraph 10 of Schedule 2A to the Insolvency Act 1986(5) (exceptions to the prohibition on appointment of administrative receiver: supplementary provisions)—

(a) for sub-paragraph (1)(n) substitute—

“(n) in reliance on a railway undertaking licence granted pursuant to the Railway (Licensing of Railway Undertakings) Regulations 2005.”;

(b) omit sub-paragraph (2B).

Commencement Information

I21 [Reg. 21](#) in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see [reg. 1\(2\)](#)

The Railways Act 1993

22.—(1) The Railways Act 1993(6) is amended as follows.

(2) In section 6 (prohibition on unauthorised operators of railway assets)—

(a) in subsection (1A), for “European” substitute “railway undertaking”;

(b) in subsection (2)—

(i) omit the definition of “European licence”;

(ii) at the appropriate place insert—

““railway undertaking licence” means a licence granted pursuant to the Railway (Licensing of Railway Undertakings) Regulations 2005;”;

(c) omit subsection (2A).

(3) In section 59(6)(a)(i) (meaning and effect of railway administration order), for “European” substitute “railway undertaking”.

(4) In section 72(2)(a) (keeping of register by the Office of Rail and Road), for “European”, in each place it occurs, substitute “railway undertaking”.

(5) In section 80(1A) (duty to furnish information on request)—

(a) for “European licences” substitute “railway undertaking licences”;

(b) for the words from “any instrument made” to the end of paragraph (b) substitute “the Railway (Licensing of Railway Undertakings) Regulations 2005”.

(6) In section 83(1) (interpretation)—

(a) omit the definition of “European licence”;

(b) at the appropriate place, insert—

““railway undertaking licence” has the meaning given by section 6(2);”.

(7) In section 145(2) (general restrictions on the disclosure of information), for paragraph (ga) substitute—

(5) [1986 c. 45](#); Schedule 2A was inserted by the Enterprise Act 2002 ([c.40](#)) section 250(2), Schedule 18; the relevant amending instruments are [S.I. 2005/3050](#) and [2016/645](#).

(6) [1993 c. 43](#); Section 6(1A) and (2A) were inserted by [S.I. 1998/1340](#) and subsequently amended by [S.I. 2005/3050](#), subsection(2) was amended by [S.I. 2005/3050](#) and [2016/645](#); section 59(6) was amended by [S.I. 2005/3050](#); section 72(2)(a) was amended by [S.I. 2005/3050](#); section 80(1A) was inserted by [S.I. 2005/3050](#) and amended by [S.I. 2015/1682](#) and [2016/645](#); section 83(1) was inserted by [S.I. 2005/3050](#); section 145(2)(ga) was inserted by [S.I. 2005/3050](#) and subsequently amended by [S.I. 2015/1682](#) and [2016/645](#); Schedule 7 was amended by [S.I. 2005/3050](#). There are other amending instruments but none is relevant.

“(ga) for the purpose of facilitating the carrying out by the Office of Rail and Road of any of its functions under—

- (i) the Railway (Licensing of Railway Undertakings) Regulations 2005, or
- (ii) the Railways (Access, Management and Licensing of Railway Undertakings) Regulations 2016(7);”.

(8) In Schedule 7 (transfer of relevant activities in connection with railway administration orders)

- (a) in paragraph 1(2), in the definition of “other appointee”, for “European” substitute “railway undertaking”;
- (b) in paragraph 4(3), for “European” substitute “railway undertaking”.

Commencement Information

I22 [Reg. 22](#) in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see [reg. 1\(2\)](#)

The Greater London Authority Act 1999

23. In section 235(2)(b) of the Greater London Authority Act 1999(8) (restrictions on the disclosure of information), for the words from “or any subordinate legislation” to the end, substitute “, the Railway (Licensing of Railway Undertakings) Regulations 2005 or the Railways (Access, Management and Licensing of Railway Undertakings) Regulations 2016;”.

Commencement Information

I23 [Reg. 23](#) in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see [reg. 1\(2\)](#)

The Civil Contingencies Act 2004

24. In Schedule 1 to the Civil Contingencies Act 2004(9) (category 1 and 2 responders)—

(a) for paragraph 24, substitute—

“**24.** A person who provides services in connection with railways in Great Britain and who holds a railway undertaking licence granted pursuant to the Railway (Licensing of Railway Undertakings) Regulations 2005.”;

(b) for paragraph 35, substitute—

“**35.** A person who provides services in connection with railways, in so far as such services are provided in Scotland, and who holds a railway undertaking licence granted pursuant to the Railway (Licensing of Railway Undertakings) Regulations 2005.”.

(7) [S.I. 2016/645](#).

(8) [1999 c. 29](#); section 235(2)(b) was amended by the Railways Act 2005, section 59(1), Schedule 12, paragraph 14(1) and (5) (b) and by [S.I. 2005/3049](#), [2014/892](#), [2015/1682](#) and [2016/645](#).

(9) [2004 c. 36](#); paragraphs 24 and 35 of Schedule 1 were amended by [S.I. 2005/3050](#) and [2016/645](#).

Commencement Information

I24 [Reg. 24](#) in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see [reg. 1\(2\)](#)

The Railways Act 2005

25.—(1) The Railways Act 2005(**10**) is amended as follows.

(2) In section 46(7)(c) (bye-laws), for “European” substitute “railway undertaking”.

(3) In section 59(5A) (consequential amendments, transitional provisions and repeals), for “European”, in both places it occurs, substitute “railway undertaking”.

Commencement Information

I25 [Reg. 25](#) in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see [reg. 1\(2\)](#)

PART 4

Amendments etc. to other legislation

The London Underground (East London Line Extension) (No. 2) Order 2001

26.—(1) Paragraph 1(2) of Schedule 11 to the London Underground (East London Line Extension) (No. 2) Order 2001(**11**) (protection for Railtrack) is amended as follows.

(2) Omit the definition of “EEA State”.

(3) In the definition of “train operator”—

(a) for “European licence” substitute “railway undertaking licence”;

(b) omit from “or pursuant” to “a single European railway area (recast)”.

Commencement Information

I26 [Reg. 26](#) in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see [reg. 1\(2\)](#)

The Docklands Light Railway (Silvertown and London City Airport Extension) Order 2002

27.—(1) Paragraph 13(6) of Schedule 11 to the Docklands Light Railway (Silvertown and London City Airport Extension) Order 2002(**12**) (protection of railway undertakers) is amended as follows.

(2) Omit the definition of “EEA State”.

(3) In the definition of “train operator”—

(a) for “European licence” substitute “railway undertaking licence”;

(10) 2005 c. 14; section 46(7) was amended by [S.I. 2005/3050](#); section 59(5A) was inserted by [S.I. 2005/3050](#).

(11) [S.I. 2001/3682](#), amended by [S.I. 2005/3050](#), [2016/645](#), there are other amendments but none is relevant.

(12) [S.I. 2002/1066](#), amended by [S.I. 2005/3050](#), [2016/645](#), there are other amendments but none is relevant.

- (b) omit from “or pursuant” to “a single European railway area (recast)”.

Commencement Information

I27 Reg. 27 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(2)

The Docklands Light Railway (Woolwich Arsenal Extension) Order 2004

28.—(1) Paragraph 15(6) of Schedule 13 to the Docklands Light Railway (Woolwich Arsenal Extension) Order 2004(**13**) (protection of railway interests) is amended as follows.

- (2) Omit the definition of “EEA State”.
- (3) In the definition of “train operator”—
- (a) for “European licence” substitute “railway undertaking licence”;
- (b) omit from “or pursuant” to “a single European railway area (recast)”.

Commencement Information

I28 Reg. 28 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(2)

The British Transport Police (Police Services Agreement) Order 2004

29.—(1) Article 2 of the British Transport Police (Police Services Agreement) Order 2004(**14**) (requirement to enter into a police services agreement) is amended as follows.

- (2) In paragraph (1)(b)—
- (a) for “European licence” substitute “railway undertaking licence”;
- (b) omit from “or pursuant” to “a single European railway area (recast)”.
- (3) In paragraph (3), omit from “; and “EEA State”” to the end.

Commencement Information

I29 Reg. 29 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(2)

Central Rating List (England) Regulations 2005

30.—(1) Regulation 6(4) of the Central Rating List (England) Regulations 2005(**15**) (railway hereditaments) is amended as follows.

- (2) Omit the definition of “EEA State”.
- (3) In the definition of “licence exempt operator” and “licence holder”—
- (a) for “European licence” substitute “railway undertaking licence”;
- (b) omit from “or pursuant” to the end.

(13) S.I. 2004/757, amended by S.I. 2005/3050, 2016/645, there are other amendments but none is relevant.

(14) S.I. 2004/1522, amended by S.I. 2005/3050, 2016/645.

(15) S.I. 2005/551, amended by S.I. 2005/3050, 2016/645, there are other amendments but none is relevant.

Commencement Information

I30 [Reg. 30](#) in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see [reg. 1\(2\)](#)

Commission Implementing Regulation (EU) 2015/171

31. Commission Implementing Regulation (EU) 2015/171 of 4th February 2015 on certain aspects of the procedure of licensing railway undertakings is revoked.

Commencement Information

I31 [Reg. 31](#) in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see [reg. 1\(2\)](#)

PART 5

Transitional provisions relating to existing licences and applications

Existing European licences

32.—(1) Paragraphs (2) and (3) apply in relation to—

- (a) any European licence granted by the ORR under the 2005 Regulations which has effect immediately before exit day, or
- (b) any other licence so far as, immediately before exit day, it has effect as if it were a European licence as a result of Schedule 4 to the 2005 Regulations (transitional provisions relating to existing licences and licence exemptions).

(2) The licence continues to have effect on and after exit day as if it were a railway undertaking licence under the 2005 Regulations as amended by these Regulations (and the licence is to be read with such modifications as are necessary for it to do so).

(3) Any act or omission in relation to, or in reliance on, the licence that has effect immediately before exit day continues to have effect in relation to the licence on and after exit day.

Commencement Information

I32 [Reg. 32](#) in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see [reg. 1\(2\)](#)

Applications for European licences made before exit day

33.—(1) Paragraphs (2) and (3) apply in relation to any application made to the ORR before exit day for a European licence under the 2005 Regulations but not determined before exit day.

(2) Subject to paragraph (3), on and after exit day the application is to be treated as an application for a railway undertaking licence and the 2005 Regulations (as amended by these Regulations) apply accordingly.

(3) Any act in relation to the application that has effect immediately before exit day continues to have effect in relation to the application on and after exit day.

Commencement Information

I33 Reg. 33 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see reg. 1(2)

PART 6

Transitory provisions recognising licences granted by authorities in the EEA

Modifications to the 2005 Regulations

34. For the period of 2 years beginning with exit day, the 2005 Regulations (as amended by these Regulations) have effect with the modifications in [^{F1}regulations 35 to 40].

[^{F2}**35.** Regulation 2(1) (interpretation) has effect as if the following definitions were inserted at the appropriate places—

““the 1995 Directive” means Council [Directive 95/18/EC](#) of 19th June 1995 on the licensing of railway undertakings, as amended by [Directive 2001/13/EC](#) of 26th February 2001 and [Directive 2004/49/EC](#) of 29th April 2004, both of the European Parliament and of the Council;”;

““the 2012 Directive” means [Directive 2012/34/EU](#) of the European Parliament and of the Council of 21st November 2012 establishing a single European railway area (recast);”;

““Channel Tunnel service” means—

- (a) a service for the transport of passengers by rail between Calais-Fréthun station in France and Ashford International station in the United Kingdom;
- (b) a service for the transport of goods by rail between Fréthun freight yard in France and Dollands Moor freight yard in the United Kingdom; or
- (c) a service for the transport of passengers or goods by rail which originates or terminates somewhere other than one of those stations or freight yards but only while it passes between them;”;

““European licence” means a licence that is—

- (a) valid throughout the territory of any EEA state;
- (b) granted to a railway undertaking by which the capacity of the railway undertaking as such is recognised and which authorises the undertaking to provide in and between EEA states such train services as may be specified in the licence; and
- (c) granted pursuant to action taken by an EEA state for the purpose of implementing the 1995 Directive or the 2012 Directive;”;

““French licensing authority” means the body responsible for granting European licences in France;”.]

36. Regulation 5 (prohibition of unlicensed provision of services) has effect as if for paragraph (1) there were substituted—

“(1) Where a person is a railway undertaking to which these Regulations apply, that person may not provide a train service in Great Britain unless the person is authorised to do so—

- (a) by a railway undertaking licence which is appropriate for that train service, or

(b) by a European licence which would be appropriate for that train service if the United Kingdom were an EEA state,

and any person who provides such a service without such a licence is guilty of an offence.”.

[^{F3}**36A.** The 2005 Regulations have effect as if the following regulation were inserted after regulation 8—

“Information sharing by the ORR

8A.—(1) Where the ORR considers that there is serious doubt whether a railway undertaking which holds a European licence and is operating a Channel Tunnel service in reliance on that licence complies with any requirement of the 1995 Directive or Chapter III of the 2012 Directive, it must so notify the French licensing authority.

(2) The ORR must without delay provide information to the French licensing authority in relation to any relevant railway undertaking licence and the railway undertaking to which that licence has been granted—

- (a) on request by the French licensing authority on notifying the ORR of any concerns or doubts in relation to the validity of that licence;
- (b) if the ORR takes steps in accordance with regulation 8(2)(b) to determine whether or not the railway undertaking to which that licence has been granted complies with a requirement referred to in Schedule 2;
- (c) if the ORR requires that railway undertaking to submit or resubmit its licence for approval in accordance with regulation 8; or
- (d) the ORR suspends or revokes that licence.

(3) In this regulation “a relevant railway undertaking licence” means a railway undertaking licence in reliance upon which a railway undertaking provides a Channel Tunnel service in France.”.]

[^{F4}**37.** Regulation 9 (prohibition on operating trains without a statement of national regulatory provisions) has effect as if—

- (a) in paragraph (1), at the beginning—
 - (i) for “Where” there were substituted “Subject to paragraph (6), where”;
 - (ii) after “railway undertaking licence” there were inserted “or a European licence (see regulation 5)”;
- (b) after paragraph (5) there were inserted—

“(6) This regulation and regulations 10 to 14A and Schedule 3 do not apply in respect of the provision of a Channel Tunnel service if the person providing that service does so in reliance on a European licence and is not authorised to do so by a railway undertaking licence.”.]

38.—(1) Regulation 10 (statements of national regulatory provisions) has effect with the modifications in paragraphs (2) and (3).

(2) Paragraph (1) has effect as if after “railway undertaking licence” there were inserted “or European licence”.

(3) Paragraph (2)(b) has effect as if after “the railway undertaking licence” there were inserted “or the European licence”.

39. Regulation 11(1) (conditions of SNRPs) has effect as if after “railway undertaking licence” there were inserted “or a European licence (see regulation 5)”.

40. The 2005 Regulations have effect as if the following regulation were inserted after regulation 14—

“Monitoring, suspension and revocation of SNRPs issued to holders of European licences

14A.—(1) This regulation applies where the ORR has issued an SNRP to a holder of a European licence under regulation 10.

(2) The ORR must take such steps as are necessary to enable it to determine whether or not the licence holder complies with the requirements referred to in Schedule 2 as to good repute, financial fitness, professional competence and insurance cover for civil liabilities at any time the ORR considers that there is serious doubt whether the licence holder complies with any of those requirements, and in doing so, the ORR must treat Schedule 2 as if it applies in relation to holders of European licences.

(3) If, having taken the steps referred to in paragraph (2), the ORR is satisfied that the licence holder does not comply with any such requirement, the ORR must revoke or suspend the SNRP issued to the licence holder.”.

- F1** Words in reg. 34 substituted (30.9.2021) by [The Railway \(Licensing of Railway Undertakings\) \(Amendment\) Regulations 2021 \(S.I. 2021/1105\)](#), regs. 1(2), **15**
- F2** Reg. 35 substituted (30.9.2021) by [The Railway \(Licensing of Railway Undertakings\) \(Amendment\) Regulations 2021 \(S.I. 2021/1105\)](#), regs. 1(2), **16**
- F3** Reg. 36A inserted (30.9.2021) by [The Railway \(Licensing of Railway Undertakings\) \(Amendment\) Regulations 2021 \(S.I. 2021/1105\)](#), regs. 1(2), **17**
- F4** Reg. 37 substituted (30.9.2021) by [The Railway \(Licensing of Railway Undertakings\) \(Amendment\) Regulations 2021 \(S.I. 2021/1105\)](#), regs. 1(2), **18**

Commencement Information

- I34** [Reg. 34](#) in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see [reg. 1\(2\)](#)
- I35** [Reg. 36](#) in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see [reg. 1\(2\)](#)
- I36** [Reg. 38](#) in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see [reg. 1\(2\)](#)
- I37** [Reg. 39](#) in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see [reg. 1\(2\)](#)
- I38** [Reg. 40](#) in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see [reg. 1\(2\)](#)

Modifications to other legislation

41.—(1) For the period of 2 years beginning with exit day, any reference in, or application of, the provisions listed in paragraph (2) to a railway undertaking licence granted pursuant to the 2005 Regulations includes a reference to, or applies to, a relevant European licence, as the case may be.

(2) The provisions are—

- (a) section 4 of the Railway Fires Act 1905;
- (b) Schedule 2A to the Insolvency Act 1986;
- (c) sections 6(1A), 72 and 80 of the Railways Act 1993;
- (d) section 235(2) of the Greater London Authority Act 1999;
- (e) Schedule 1 to the Civil Contingencies Act 2004;

- (f) section 46 of the Railways Act 2005;
 - (g) Schedule 11 to the London Underground (East London Line Extension) (No. 2) Order 2001;
 - (h) Schedule 11 to the Docklands Light Railway (Silvertown and London City Airport Extension) Order 2002;
 - (i) Schedule 13 to the Docklands Light Railway (Woolwich Arsenal Extension) Order 2004;
 - (j) article 2 of the British Transport Police (Police Services Agreement) Order 2004;
 - (k) regulation 6 of the Central Rating List (England) Regulations 2005.
- (3) Any act or omission—
- (a) in relation to, or in reliance on, a relevant European licence, and
 - (b) that, for the purposes of the provisions listed in paragraph (2), has effect immediately before exit day,
continues to have effect on and after exit day.
- (4) For the purposes of this regulation—
- “European licence” has the same meaning as in regulation 2(1) of the 2005 Regulations (as modified by regulation 35 of these Regulations);
- [^{F5}“relevant European licence” means any European licence provided that where the holder is required to have a valid SNRP in accordance with regulation 9 of the 2005 Regulations, (as modified by regulation 37 of these Regulations) a European licence is only a relevant European licence if the holder has a valid SNRP that has not been suspended or revoked;]
- “SNRP” has the same meaning as in the 2005 Regulations.

F5 Words in reg. 41(4) substituted (30.9.2021) by [The Railway \(Licensing of Railway Undertakings\) \(Amendment\) Regulations 2021 \(S.I. 2021/1105\)](#), regs. 1(2), **19**

Commencement Information

I39 [Reg. 41](#) in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, Sch. 5 para. 1(1)), see [reg. 1\(2\)](#)

Signed by authority of the Secretary of State for Transport

Andrew Jones
Parliamentary Under Secretary of State
Department for Transport

We consent to the making of these Regulations

Rebecca Harris
Paul Maynard
Two of the Lords Commissioners of Her
Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made in exercise of the powers conferred by section 8(1) and 23 of, and paragraph 1 of Schedule 4 and paragraph 21 of Schedule 7 to, the European Union (Withdrawal) Act 2018 (c. 16) in order to address failures of retained EU law to operate effectively and other deficiencies (in particular under section 8(2)(a), (b), (c), (d) and (g)) arising from the withdrawal of the UK from the European Union.

These Regulations make amendments to legislation relating to the licensing of railway undertakings in Great Britain. Part 2 amends the existing licensing legislation.

Parts 3 and 4 make consequential amendments to primary and secondary legislation. Part 4 (regulation 31) also revokes Regulation (EU) 2015/171 in Great Britain and Northern Ireland.

Part 5 makes transitional provision in respect of existing European licences granted by the Office of Rail and Road (established under section 15 of the Railways and Transport Safety Act 2003 (c. 20); section 15 was amended by the Office of Rail Regulation (Change of Name) Regulations (S.I. 2015/1682)) and pending applications for a licence so that they are treated as licences issued under the 2005 Regulations as amended by these Regulations.

Part 6 makes transitory provision so that European licences issued by an EEA Member State continue to be recognised in Great Britain for two years from exit day. The effect is that in respect of all existing legislation as it applies to these licences there is no change for two years.

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private or voluntary sector is foreseen.

An Explanatory Memorandum is published alongside the instrument on www.legislation.gov.uk

Changes to legislation:

There are currently no known outstanding effects for the The Railway (Licensing of Railway Undertakings) (Amendment etc.) (EU Exit) Regulations 2019.