



## 2002 CHAPTER 8

### **Safety of railways**

1.—(1) Part II of the Health and Safety at Work (Northern Ireland) Order 1978 (NI 9) (“the 1978 Order”) shall have effect as if the provisions mentioned in subsection (4) (which relate to the proper construction and safe operation of railways and of the vehicles used on railways and the protection of railway employees or the general public from personal injury and other risks arising therefrom)—

- (a) were existing statutory provisions, within the meaning of that Part; and
- (b) in the case of the statutory provisions mentioned in paragraphs (a) to (i) of that subsection, were specified in the third column of Schedule 1 to that Order.

(2) If to any extent they would not do so apart from this subsection, the general purposes of Part II of the 1978 Order shall include—

- (a) securing the proper construction and safe operation of railways, and of any vehicles used, or to be used, on railways; and
- (b) protecting the public (whether passengers or not) from personal injury and other risks arising from the construction and operation of railways.

(3) Without prejudice to the generality of paragraph (1) of Article 17 of the 1978 Order (health and safety regulations), regulations under that Article may—

- (a) repeal or modify any of the statutory provisions mentioned in subsection (4); and
- (b) make any provision which, but for any such repeal or modification, could be made by regulations or orders made under any of those statutory provisions.

(4) The provisions referred to in subsections (1) and (3) are—

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- (a) section 10 of the Railway Regulation Act 1842 (c. 55);
- (b) section 47 of the Railways Clauses Consolidation Act 1845 (c. 20);
- (c) section 22 of the Regulation of Railways Act 1868 (c. 119);
- (d) the Regulation of Railways Act 1871 (c. 78);
- (e) sections 1 and 4 of the Regulation of Railways Act 1889 (c. 57);
- (f) the Railway Employment (Prevention of Accidents) Act 1900 (c. 27);
- (g) sections 2 and 3 of the Railways Act (Northern Ireland) 1934 (c. 5);
- (h) section 66 of the Transport Act (Northern Ireland) 1967 (c. 37);
- (i) sections 2 to 4 of this Act;
- (j) any regulations made under section 2 of the European Communities Act 1972 (c. 68) for the purpose of implementing the Council Directive of 29th July 1991 (91/440/EEC) on the development of the Community's railways (as amended or extended by any subsequent Directive), so far as the regulations are made for safety purposes.

### **Approval of railway works, plant and equipment**

2.—(1) For the purpose of securing the safe operation of railways, the Department may make regulations requiring that its approval be obtained before—

- (a) new works, plant or equipment are first brought into use; or
- (b) works, plant or equipment are first brought into use after alterations have been made to them.

(2) Regulations under this section—

- (a) shall prescribe the cases in which approval is required and the procedure for obtaining it;
- (b) may include provision as to the time when works, plant or equipment are to be treated as first brought into use, including provision for disregarding periods of testing and other periods of use before sufficient information is available for a decision to be made on an application for approval;
- (c) may include provision prohibiting the giving of false information to the Department.

(3) Regulations under this section may include provision authorising the Department—

- (a) to dispense (conditionally or unconditionally) with compliance with regulations that would otherwise apply, or
- (b) to require compliance with regulations that would not otherwise apply,

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either in the case of any particular works, plant, equipment or alterations, or in the case of works, plant, equipment or alterations of such descriptions as it may determine.

(4) Regulations under this section may provide that any person who without reasonable cause contravenes any specified provision of the regulations, or does so in specified circumstances, shall be guilty of an offence under this section.

(5) Where the commission by any person of an offence under this section is due to the act or default of some other person, that other person shall be guilty of the offence, and a person may be charged with and convicted of the offence by virtue of this subsection whether or not proceedings are taken against the first-mentioned person.

(6) A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(7) In this section “equipment” includes vehicles.

(8) Regulations under this section shall be subject to negative resolution.

#### **Accidents, etc.**

**3.—**(1) The Department may make regulations requiring the reporting to it of—

- (a) accidents involving death or personal injury, and
- (b) circumstances involving a danger of death or personal injury,

which occur in the operation of railways.

(2) Regulations under this section shall prescribe the cases in which reports are required, the persons required to make them, the time and manner in which they are to be made, and the particulars to be included in them.

(3) Regulations under this section may include provision authorising the Department—

- (a) to dispense with compliance with any provision of the regulations that would otherwise apply, or
- (b) to require compliance with any provision that would not otherwise apply,

in any case where the Department considers it appropriate to do so.

(4) A person who, without reasonable excuse, fails to make a report as required by regulations under this section shall be guilty of an offence.

(5) A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(6) Regulations under this section shall be subject to negative resolution.

### **Directions limiting speeds and loads**

4.—(1) The Department may give a direction under this section to the operator of a railway.

(2) A direction under this section may impose—

- (a) maximum speeds at which vehicles in use on a railway may travel, and
- (b) maximum weights that may be transmitted to the rails by any one pair of wheels, or by such other parts of the vehicles as may be specified in the direction.

(3) Directions under this section may make different provision for different vehicles, different parts of a railway, or otherwise for different circumstances.

(4) Before giving a direction under this section, the Department shall consult the person to whom he proposes to give it.

(5) If a direction under this section is contravened, the person to whom the direction was given shall be guilty of an offence.

(6) A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

### **Signs and barriers at private crossings**

5. Schedule 1 (which makes provision for the placing of signs and barriers on or near a private road or path which crosses a railway) shall have effect.

### **Interpretation**

6. In this Act—

“the Department” means the Department for Regional Development;

“operator”, in relation to a railway, means a person carrying on an undertaking which includes that system of transport, or the provision of transport services on that system;

“railway” means a system of transport employing parallel rails which—

- (a) provide support and guidance for vehicles carried on flanged wheels; and
- (b) form a track which is of a gauge of at least 350 millimetres;

“vehicle”, in relation to a railway, includes anything which (whether or not it is constructed or adapted to carry any person or load) is constructed or adapted to run on flanged wheels over or along parallel rails.

### *Section 7—Amendments and repeals*

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### **Commencement**

**8.**—(1) Except as provided by subsection (2), this Act shall come into operation on the expiration of the period of two months from the date on which it receives Royal Assent.

(2) Sections 2, 3 and 7 (and Schedule 2) shall come into operation on such day or days as the Department may by order appoint.

(3) An order under subsection (2) may include such transitional provisions and savings as the Department thinks necessary or expedient.

### **Short title**

**9.** This Act may be cited as the Railway Safety Act (Northern Ireland) 2002.

**Changes to legislation:**

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